

**BUDGETARY PROCEDURES ACT REVISIONS**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ron Bigelow**

Senate Sponsor: Lyle W. Hillyard

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**LONG TITLE**

**General Description:**

This bill modifies provisions of the Budgetary Procedures Act.

**Highlighted Provisions:**

This bill:

▶ reclassifies the Invasive Species Mitigation Fund from a restricted special revenue fund to a general fund restricted account;

▶ reclassifies the Rangeland Improvement Fund from a restricted special revenue account to a general fund restricted account;

▶ provides that interest accrued from the Rangeland Improvement Fund be deposited into the General Fund;

▶ converts the LeRay McAllister Critical Land Conservation Fund to a program funded by an appropriation line item for the Quality Growth Commission;

▶ removes references to the use of loans in relation to the LeRay McAllister Critical Land Conservation Program;

▶ provides that the LeRay McAllister Critical Land Conservation Program's line item be nonlapsing;

▶ reclassifies the Rural Health Care Facilities Fund from a restricted special revenue fund to a general fund restricted account;

▶ revises agency fee language to accommodate the removal of the "regulatory" fee designation;



- 28           ▶ creates, modifies, and provides definitions in the Budgetary Procedures Act;
- 29           ▶ clarifies the procedures to be followed when seeking to expend dedicated credits in  
30 excess of the amount appropriated by the Legislature;
- 31           ▶ clarifies procedures and simplifies timelines relating to the governor's submission of  
32 a proposed budget;
- 33           ▶ defines the term "work program" and clarifies and modifies the procedures for work  
34 program adjustments;
- 35           ▶ clarifies and makes amendments to the procedures for approving the transfer of  
36 monies between programs;
- 37           ▶ requires the Division of Finance to audit all claims against the state for which an  
38 appropriation has been made;
- 39           ▶ creates a preference for purchase card accounts over petty cash funds and provides  
40 procedures for approving and reviewing petty account funds;
- 41           ▶ provides that the Division of Finance, rather than the governor, review applications  
42 and establish petty cash funds;
- 43           ▶ permits the Division of Finance to eliminate existing cash funds in favor of a  
44 purchasing card account;
- 45           ▶ requires reports of overexpended line items to be submitted to the Office of the  
46 Legislative Fiscal Analyst in addition to the Board of Examiners;
- 47           ▶ modifies language related to the governor's obligation to reduce commitments and  
48 expenditures in a deficit situation;
- 49           ▶ requires that, in the event of a deficiency, state agencies proportionally reduce  
50 commitments and expenditures;
- 51           ▶ removes any distinction between "fees" and "regulatory fees";
- 52           ▶ provides that all fees charged by an agency must be submitted to the Legislature and  
53 approved in an appropriations act;
- 54           ▶ clarifies that an agency must hold a public hearing on establishing or modifying a  
55 fee before presenting the fee for legislative review;
- 56           ▶ changes the term "college and university funds" to "discrete component unit funds"  
57 to comply with currently existing definitions in other sections of the code;
- 58           ▶ requires state institutions of higher education to report nonlapsing balances to the

- 59 Division of Finance by the September 1 following the close of the fiscal year;
- 60       ▶ consolidates the listing of all nonlapsing funds and accounts;
- 61       ▶ requires that an account or fund be expressly referenced as nonlapsing in the
- 62 Budgetary Procedures Act in order for the account or fund to be treated as
- 63 nonlapsing;
- 64       ▶ requires legislative appropriations subcommittees to review those accounts and
- 65 funds that have been granted nonlapsing authority on a yearly basis;
- 66       ▶ requires each agency to report the balances of any dedicated credits and fixed
- 67 collections at the end of each fiscal year; and
- 68       ▶ makes technical changes.

69 **Monies Appropriated in this Bill:**

70       None

71 **Other Special Clauses:**

72       This bill takes effect on July 1, 2009.

73       This bill coordinates with H.B. 297, Budgetary Procedures Act Recodification, by

74 providing superseding amendments.

75       This bill coordinates with H.B. 400, Pete Suazo Utah Athletic Commission

76 Amendments, by providing substantive and technical amendments.

77       This bill provides revisor instructions.

78 **Utah Code Sections Affected:**

79 AMENDS:

- 80       **4-2-8.7**, as enacted by Laws of Utah 2008, Chapter 245
- 81       **4-20-2**, as last amended by Laws of Utah 2008, Chapter 399
- 82       **11-38-102**, as last amended by Laws of Utah 2008, Chapter 382
- 83       **11-38-202**, as enacted by Laws of Utah 1999, Chapter 24
- 84       **11-38-301**, as last amended by Laws of Utah 2007, Chapter 392
- 85       **11-38-302**, as last amended by Laws of Utah 2005, Chapter 138
- 86       **11-38-304**, as enacted by Laws of Utah 1999, Chapter 24
- 87       **26-9-4**, as last amended by Laws of Utah 2008, Chapter 187
- 88       **31A-3-103**, as last amended by Laws of Utah 2008, Chapter 382
- 89       **38-11-201**, as last amended by Laws of Utah 2008, Chapter 382

- 90           **53-2-404**, as last amended by Laws of Utah 2008, Chapter 382
- 91           **63J-1-201**, as last amended by Laws of Utah 2008, Chapter 213 and renumbered and
- 92 amended by Laws of Utah 2008, Chapter 382
- 93           **63J-2-202**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 94           **67-5-25**, as last amended by Laws of Utah 2008, Chapter 216
- 95           **70-3a-203**, as last amended by Laws of Utah 2008, Chapters 258 and 382
- 96           **70-3a-302**, as last amended by Laws of Utah 2008, Chapter 258
- 97           **70-3a-303**, as last amended by Laws of Utah 2008, Chapter 382
- 98           **70-3a-305**, as last amended by Laws of Utah 2008, Chapter 258

99 ENACTS:

- 100           **63J-1-102**, Utah Code Annotated 1953
- 101           **63J-1-602**, Utah Code Annotated 1953

102 RENUMBERS AND AMENDS:

- 103           **63J-1-104**, (Renumbered from 63J-1-404, as renumbered and amended by Laws of
- 104 Utah 2008, Chapter 382)
- 105           **63J-1-206**, (Renumbered from 63J-1-301, as renumbered and amended by Laws of
- 106 Utah 2008, Chapter 382)
- 107           **63J-1-209**, (Renumbered from 63J-1-406, as renumbered and amended by Laws of
- 108 Utah 2008, Chapter 382)
- 109           **63J-1-215**, (Renumbered from 63J-1-311, as renumbered and amended by Laws of
- 110 Utah 2008, Chapter 382)
- 111           **63J-1-217**, (Renumbered from 63J-1-405, as renumbered and amended by Laws of
- 112 Utah 2008, Chapter 382)
- 113           **63J-1-504**, (Renumbered from 63J-1-303, as renumbered and amended by Laws of
- 114 Utah 2008, Chapter 382)
- 115           **63J-1-601**, (Renumbered from 63J-1-401, as renumbered and amended by Laws of
- 116 Utah 2008, Chapter 382)

117 REPEALS:

- 118           **11-38-303**, as last amended by Laws of Utah 2008, Chapter 382



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

121 Section 1. Section **4-2-8.7** is amended to read:

122 **4-2-8.7. Invasive Species Mitigation Fund created.**

123 (1) As used in this section, "project" means an undertaking that prevents catastrophic  
124 wildland fire through land restoration in a watershed that:

125 (a) is impacted by cheatgrass or other invasive species; or

126 (b) has a fuel load that may contribute to a catastrophic wildland fire.

127 (2) (a) There is created a [~~restricted special revenue fund~~] general fund restricted  
128 account known as the "Invasive Species Mitigation Fund."

129 (b) The fund shall consist of:

130 (i) money appropriated by the Legislature;

131 (ii) grants from the federal government; and

132 (iii) grants or donations from a person.

133 (3) Any unallocated balance in the fund at the end of the year is nonlapsing.

134 (4) (a) After consulting with the Department of Natural Resources and the

135 Conservation Commission, the department may expend fund monies:

136 (i) on a project implemented by:

137 (A) the department; or

138 (B) the Conservation Commission; or

139 (ii) by giving a grant for a project to:

140 (A) a state agency;

141 (B) a federal agency; or

142 (C) a federal, state, tribal, or private landowner.

143 (b) A grant to a federal landowner must be matched with at least an equal amount of  
144 money by the federal landowner.

145 (c) In expending the fund monies authorized by Subsection (4)(a)(i), the department  
146 shall use existing infrastructure and employees to plan and implement the project.

147 (5) In giving a grant, the department shall consider the effectiveness of a project in  
148 preventing:

149 (a) first, the risk to public safety and health from:

150 (i) air pollution;

151 (ii) flooding; and

- 152 (iii) reduced visibility on a highway;
- 153 (b) second, damage to the environment, including:
- 154 (i) soil erosion;
- 155 (ii) degraded water quality; and
- 156 (iii) release of carbon; and
- 157 (c) third, damage to:
- 158 (i) a local economy; and
- 159 (ii) habitat for wildlife or livestock.

160 Section 2. Section **4-20-2** is amended to read:

161 **4-20-2. Rangeland Improvement Fund -- Administered by department.**

162 (1) (a) There is created a [~~restricted special revenue fund~~] general fund restricted  
163 account known as the "Rangeland Improvement Fund."

164 (b) The fund shall consist of:

- 165 (i) all monies received by the state from the United States Secretary of Interior under
- 166 the Taylor Grazing Act, 43 U.S.C. Section 315 et seq., for sales, leases, and fees;
- 167 (ii) grants or appropriations from the state or federal government;
- 168 (iii) grants from private foundations; and
- 169 (iv) proceeds from the sale of a livestock watering right in accordance with Section

170 73-3-31[~~; and~~].

171 [~~(v) interest on fund monies.~~]

172 (c) Any interest earned on the fund shall be deposited into the General Fund.

173 (2) Any unallocated balance in the fund at the end of a fiscal year is nonlapsing.

174 (3) The department shall:

- 175 (a) administer the fund;
- 176 (b) obtain from the United States Department of Interior the receipts collected from:
- 177 (i) fees in each grazing district; and
- 178 (ii) the receipts collected from the sale or lease of public lands; and
- 179 (c) distribute fund monies in accordance with Section 4-20-3.

180 Section 3. Section **11-38-102** is amended to read:

181 **11-38-102. Definitions.**

182 As used in this chapter:

183 (1) "Affordable housing" means housing occupied or reserved for occupancy by  
184 households with a gross household income equal to or less than 80% of the median gross  
185 income of the applicable municipal or county statistical area for households of the same size.

186 (2) "Agricultural land" has the same meaning as "land in agricultural use" under  
187 Section 59-2-502.

188 (3) "Brownfield sites" means abandoned, idled, or underused commercial or industrial  
189 land where expansion or redevelopment is complicated by real or perceived environmental  
190 contamination.

191 (4) "Commission" means the Quality Growth Commission established in Section  
192 11-38-201.

193 [~~(5) "Fund" means the LeRay McAllister Critical Land Conservation Fund established~~  
194 ~~in Section 11-38-301.~~]

195 [(~~6~~) (5) "Infill development" means residential, commercial, or industrial development  
196 on unused or underused land, excluding open land and agricultural land, within existing,  
197 otherwise developed urban areas.

198 [(~~7~~) (6) "Local entity" means a county, city, or town.

199 [(~~8~~) (7) "OPB" means the Governor's Office of Planning and Budget established under  
200 Section 63J-4-201.

201 [(~~9~~) (8) (a) "Open land" means land that is:

202 (i) preserved in or restored to a predominantly natural, open, and undeveloped  
203 condition; and

204 (ii) used for:

205 (A) wildlife habitat;

206 (B) cultural or recreational use;

207 (C) watershed protection; or

208 (D) another use consistent with the preservation of the land in or restoration of the land  
209 to a predominantly natural, open, and undeveloped condition.

210 (b) (i) "Open land" does not include land whose predominant use is as a developed  
211 facility for active recreational activities, including baseball, tennis, soccer, golf, or other  
212 sporting or similar activity.

213 (ii) The condition of land does not change from a natural, open, and undeveloped

214 condition because of the development or presence on the land of facilities, including trails,  
215 waterways, and grassy areas, that:

- 216 (A) enhance the natural, scenic, or aesthetic qualities of the land; or
- 217 (B) facilitate the public's access to or use of the land for the enjoyment of its natural,  
218 scenic, or aesthetic qualities and for compatible recreational activities.

219 (9) "Program" means the LeRay McAllister Critical Land Conservation Program  
220 established in Section 11-38-301.

221 (10) "Surplus land" means real property owned by the Department of Administrative  
222 Services, the Department of Agriculture and Food, the Department of Natural Resources, or the  
223 Department of Transportation that the individual department determines not to be necessary for  
224 carrying out the mission of the department.

225 Section 4. Section **11-38-202** is amended to read:

226 **11-38-202. Commission duties and powers -- No regulatory authority.**

227 (1) The commission shall:

228 (a) make recommendations to the Legislature on how to define more specifically  
229 quality growth areas within the general guidelines provided to the commission by the  
230 Legislature;

231 (b) advise the Legislature on growth management issues;

232 (c) make recommendations to the Legislature on refinements to this chapter;

233 (d) conduct a review in 2002 and each year thereafter to determine progress statewide  
234 on accomplishing the purposes of this chapter, and give a report of each review to the Political  
235 Subdivisions Interim Committee of the Legislature by November 30 of the year of the review;

236 (e) administer the ~~[fund]~~ program as provided in this chapter;

237 (f) assist as many local entities as possible, at their request, to identify principles of  
238 growth that the local entity may consider implementing to help achieve the highest possible  
239 quality of growth for that entity;

240 (g) fulfill other responsibilities imposed on the commission by the Legislature; and

241 (h) fulfill all other duties imposed on the commission by this chapter.

242 (2) The commission may sell, lease, or otherwise dispose of equipment or personal  
243 property belonging to the ~~[fund]~~ program, the proceeds from which shall return to the fund.

244 (3) The commission may not exercise any regulatory authority.

245 Section 5. Section **11-38-301** is amended to read:

246 **11-38-301. LeRay McAllister Critical Land Conservation Program.**

247 (1) There is created a ~~[restricted special revenue fund]~~ program entitled the "LeRay  
248 McAllister Critical Land Conservation ~~[Fund," consisting of:]~~ Program."

249 ~~[(a) money appropriated or otherwise made available by the Legislature;]~~

250 ~~[(b) contributions of money, property, or equipment from federal agencies, political  
251 subdivisions of the state, persons, or corporations; and]~~

252 ~~[(c) proceeds that a department chooses to place into the fund from the sale of surplus  
253 land under Subsection (2).]~~

254 ~~[(2) The Department of Administrative Services, the Department of Agriculture and  
255 Food, the Department of Natural Resources, and the Department of Transportation may place  
256 proceeds from the sale of surplus land into the fund.]~~

257 ~~[(3) (a) Except as provided in Subsection (3)(b), the total amount of money in the fund  
258 may not exceed \$6,000,000.]~~

259 ~~[(b) Monies deposited into the fund under the authority of Section 67-5-25 are not  
260 subject to the cap established in Subsection (3)(a).]~~

261 (2) Funding for the program shall be a line item in the budget of the Quality Growth  
262 Commission. The line item shall be nonlapsing.

263 Section 6. Section **11-38-302** is amended to read:

264 **11-38-302. Use of money in program -- Criteria -- Administration.**

265 (1) Subject to Subsection (2), the commission may authorize the use of money in the  
266 ~~[fund]~~ program, by grant ~~[or loan]~~, to:

267 (a) a local entity;

268 (b) the Department of Natural Resources created under Section 63-34-3;

269 (c) the Department of Agriculture and Food created under Section 4-2-1; or

270 (d) a charitable organization that qualifies as being tax exempt under Section 501(c)(3)  
271 of the Internal Revenue Code.

272 (2) (a) The money in the ~~[fund]~~ program shall be used for preserving or restoring open  
273 land and agricultural land.

274 (b) (i) Except as provided in Subsection (2)(b)(ii), money from the ~~[fund]~~ program may  
275 not be used to purchase a fee interest in real property in order to preserve open land or

276 agricultural land, but may be used to establish a conservation easement under Title 57, Chapter  
277 18, Land Conservation Easement Act, or to fund similar methods to preserve open land or  
278 agricultural land.

279 (ii) Notwithstanding Subsection (2)(b)(i), money from the fund may be used to  
280 purchase a fee interest in real property to preserve open land or agricultural land if:

281 (A) the parcel to be purchased is no more than 20 acres in size; and

282 (B) with respect to a parcel purchased in a county in which over 50% of the land area is  
283 publicly owned, real property roughly equivalent in size and located within that county is  
284 contemporaneously transferred to private ownership from the governmental entity that  
285 purchased the fee interest in real property.

286 (iii) Eminent domain may not be used or threatened in connection with any purchase  
287 using money from the ~~[fund]~~ program.

288 (iv) A parcel of land larger than 20 acres in size may not be divided into separate  
289 parcels smaller than 20 acres each to meet the requirement of Subsection (2)(b)(ii).

290 (c) A county, city, town, department, or organization under Subsection (1) may not  
291 receive money from the ~~[fund]~~ program unless it provides matching funds equal to or greater  
292 than the amount of money received from the ~~[fund]~~ program.

293 (d) In ~~[loaning or]~~ granting money from the ~~[fund]~~ program, the commission may  
294 impose conditions on the recipient as to how the money is to be spent.

295 (e) The commission shall give priority to requests from the Department of Natural  
296 Resources for up to 20% of each annual increase in the amount of money in the ~~[fund]~~ program  
297 if the money is used for the protection of wildlife or watershed.

298 (f) (i) The commission may not make a grant or loan from the ~~[fund]~~ program that  
299 exceeds \$1,000,000 until after making a report to the Legislative Management Committee  
300 about the grant or loan.

301 (ii) The Legislative Management Committee may make a recommendation to the  
302 commission concerning the intended grant ~~[or loan]~~, but the recommendation is not binding on  
303 the commission.

304 ~~[(3)(a) If money from the fund is distributed in the form of a loan, the commission  
305 may require interest to be paid and shall establish other terms of each loan, including a  
306 repayment schedule.]~~

307 ~~[(b) Each payment on a loan from the fund shall be returned to the fund and shall be~~  
 308 ~~applied first to interest and then to principal.]~~

309 ~~[(4)] (3)~~ In determining the amount and type of financial assistance to provide an  
 310 entity, department, or organization under Subsection (1) and subject to Subsection (2)(f), the  
 311 commission~~[(a) if the assistance is in the form of a loan, shall consider the borrower's ability~~  
 312 ~~to repay the loan; and (b)]~~ shall consider:

313 ~~[(i)] (a)~~ the nature and amount of open land and agricultural land proposed to be  
 314 preserved or restored;

315 ~~[(ii)] (b)~~ the qualities of the open land and agricultural land proposed to be preserved or  
 316 restored;

317 ~~[(iii)] (c)~~ the cost effectiveness of the project to preserve or restore open land or  
 318 agricultural land;

319 ~~[(iv)] (d)~~ the funds available;

320 ~~[(v)] (e)~~ the number of actual and potential applications for financial assistance and the  
 321 amount of money sought by those applications;

322 ~~[(vi)] (f)~~ the open land preservation plan of the local entity where the project is located  
 323 and the priority placed on the project by that local entity;

324 ~~[(vii)] (g)~~ the effects on housing affordability and diversity; and

325 ~~[(viii)] (h)~~ whether the project protects against the loss of private property ownership.

326 ~~[(5)] (4)~~ If a county, city, town, department, or organization under Subsection (1) seeks  
 327 money from the ~~[fund]~~ program for a project whose purpose is to protect critical watershed, the  
 328 commission shall require that the needs and quality of that project be verified by the state  
 329 engineer.

330 ~~[(6)] (5)~~ Each interest in real property purchased with money from the ~~[fund]~~ program  
 331 shall be held and administered by the state or a local entity.

332 Section 7. Section **11-38-304** is amended to read:

333 **11-38-304. Commission to report annually.**

334 The commission shall submit an annual report to the Executive Appropriations  
 335 Committee of the Legislature:

336 (1) specifying the amount of each disbursement from the ~~[fund, whether by loan or~~  
 337 ~~grant]~~ program;

338 (2) identifying the recipient of each disbursement and describing the project for which  
339 money was disbursed; and

340 (3) detailing the conditions, if any, placed by the commission on disbursements from  
341 the ~~[fund]~~ program.

342 Section 8. Section **26-9-4** is amended to read:

343 **26-9-4. Rural Health Care Facilities Fund -- Source of revenues -- Interest --**  
344 **Distribution of revenues -- Expenditure of revenues -- Unexpended revenues lapse into**  
345 **the General Fund.**

346 (1) As used in this section:

347 (a) "Emergency medical services" is as defined in Section 26-8a-102.

348 (b) "Federally qualified health center" is as defined in 42 U.S.C. Sec. 1395x.

349 (c) "Fiscal year" means a one-year period beginning on July 1 of each year.

350 (d) "Freestanding urgent care center" is as defined in Section 59-12-801.

351 (e) "Fund" means the Rural Health Care Facilities Fund created by this section.

352 (f) "Nursing care facility" is as defined in Section 26-21-2.

353 (g) "Rural city hospital" is as defined in Section 59-12-801.

354 (h) "Rural county health care facility" is as defined in Section 59-12-801.

355 (i) "Rural county hospital" is as defined in Section 59-12-801.

356 (j) "Rural county nursing care facility" is as defined in Section 59-12-801.

357 (k) "Rural emergency medical services" is as defined in Section 59-12-801.

358 (l) "Rural health clinic" is as defined in 42 U.S.C. Sec. 1395x.

359 (2) There is created a ~~[restricted special revenue fund]~~ general fund restricted account  
360 known as the Rural Health Care Facilities Fund.

361 (3) (a) The fund shall be funded by amounts appropriated by the Legislature.

362 (b) Any interest earned on the fund shall be deposited into the General Fund.

363 (4) Subject to Subsection (5), the State Tax Commission shall for a fiscal year  
364 distribute monies deposited into the fund to each:

365 (a) county legislative body of a county that, on January 1, 2007, imposes a tax in  
366 accordance with Section 59-12-802; or

367 (b) city legislative body of a city that, on January 1, 2007, imposes a tax in accordance  
368 with Section 59-12-804.

369 (5) (a) For purposes of the distribution required by Subsection (4), the State Tax  
370 Commission shall:

371 (i) estimate for each county and city described in Subsection (4) the amount by which  
372 the revenues collected from the taxes imposed under Sections 59-12-802 and 59-12-804 for  
373 fiscal year 2005-06 would have been reduced had:

374 (A) the amendments made by Laws of Utah 2007, Chapter 288, Sections 25 and 26, to  
375 Sections 59-12-802 and 59-12-804 been in effect for fiscal year 2005-06; and

376 (B) each county and city described in Subsection (4) imposed the tax under Sections  
377 59-12-802 and 59-12-804 for the entire fiscal year 2005-06;

378 (ii) calculate a percentage for each county and city described in Subsection (4) by  
379 dividing the amount estimated for each county and city in accordance with Subsection (5)(a)(i)  
380 by \$555,000; and

381 (iii) distribute to each county and city described in Subsection (4) an amount equal to  
382 the product of:

383 (A) the percentage calculated in accordance with Subsection (5)(a)(ii); and

384 (B) the amount appropriated by the Legislature to the fund for the fiscal year.

385 (b) The State Tax Commission shall make the estimations, calculations, and  
386 distributions required by Subsection (5)(a) on the basis of data collected by the State Tax  
387 Commission.

388 (6) (a) Subject to Subsection (6)(b), a county legislative body shall distribute the  
389 monies the county legislative body receives in accordance with Subsection (5):

390 (i) for a county of the third, fourth, or fifth class, to fund rural county health care  
391 facilities in that county; and

392 (ii) for a county of the sixth class, to fund:

393 (A) emergency medical services in that county;

394 (B) federally qualified health centers in that county;

395 (C) freestanding urgent care centers in that county;

396 (D) rural county health care facilities in that county;

397 (E) rural health clinics in that county; or

398 (F) a combination of Subsections (6)(a)(ii)(A) through (E).

399 (b) A county legislative body shall distribute a percentage of the monies the county

400 legislative body receives in accordance with Subsection (5) to each center, clinic, facility, or  
401 service described in Subsection (6)(a) equal to the same percentage that the county legislative  
402 body distributes to that center, clinic, facility, or service in accordance with Section 59-12-803  
403 for the calendar year ending on the December 31 immediately preceding the first day of the  
404 fiscal year for which the county legislative body receives the distribution in accordance with  
405 Subsection (5).

406 (c) A center, clinic, facility, or service that receives a distribution in accordance with  
407 this Subsection (6) shall expend that distribution for the same purposes for which monies  
408 generated by a tax under Section 59-12-802 may be expended.

409 (7) (a) Subject to Subsection (7)(b), a city legislative body shall distribute the monies  
410 the city legislative body receives in accordance with Subsection (5) to fund rural city hospitals  
411 in that city.

412 (b) A city legislative body shall distribute a percentage of the monies the city  
413 legislative body receives in accordance with Subsection (5) to each rural city hospital described  
414 in Subsection (7)(a) equal to the same percentage that the city legislative body distributes to  
415 that rural city hospital in accordance with Section 59-12-805 for the calendar year ending on  
416 the December 31 immediately preceding the first day of the fiscal year for which the city  
417 legislative body receives the distribution in accordance with Subsection (5).

418 (c) A rural city hospital that receives a distribution in accordance with this Subsection  
419 (7) shall expend that distribution for the same purposes for which monies generated by a tax  
420 under Section 59-12-804 may be expended.

421 (8) Any monies remaining in the Rural Health Care Facilities Fund at the end of a  
422 fiscal year after the State Tax Commission makes the distributions required by this section  
423 shall lapse into the General Fund.

424 Section 9. Section **31A-3-103** is amended to read:

425 **31A-3-103. Fees.**

426 (1) For purposes of this section:

427 [~~(a) "Regulatory fee" is as defined in Section 63J-1-303.~~]

428 [~~(b)~~] (a) "Services" means functions that are reasonable and necessary to enable the  
429 commissioner to perform the duties imposed by this title including:

430 (i) issuing and renewing licenses and certificates of authority;

- 431 (ii) filing policy forms;  
432 (iii) reporting agent appointments and terminations; and  
433 (iv) filing annual statements.

434 ~~[(c)]~~ (b) Fees related to the renewal of licenses may be imposed no more frequently  
435 than once each year.

436 (2) ~~[(a)]~~ A ~~[regulatory]~~ fee charged by the department shall be set in accordance with  
437 Section 63J-1-303.

438 ~~[(b) Fees shall be set and collected for services provided by the department.]~~

439 ~~[(3) (a) For a fee authorized by this chapter that is not a regulatory fee, the department~~  
440 ~~may adopt a schedule of fees provided that each fee in the schedule of fees is:]~~

441 ~~[(i) reasonable and fair; and]~~

442 ~~[(ii) submitted to the Legislature as part of the department's annual appropriations~~  
443 ~~request.]~~

444 ~~[(b) If a fee schedule described in Subsection (3)(a) is submitted as part of the~~  
445 ~~department's annual appropriations request, the Legislature may, in a manner substantially~~  
446 ~~similar to Section 63J-1-303:]~~

447 ~~[(i) approve any fee in the fee schedule;]~~

448 ~~[(ii) (A) increase or decrease any fee in the fee schedule; and]~~

449 ~~[(B) approve any fee in the fee schedule as changed by the Legislature; or]~~

450 ~~[(iii) reject any fee in the fee schedule.]~~

451 ~~[(c) (i) Except as provided in Subsection (3)(c)(ii), a]~~

452 (3) (a) A fee approved by the Legislature pursuant to this ~~[Subsection (3)]~~ section shall  
453 be deposited into the General Fund for appropriation by the Legislature.

454 ~~[(ii)]~~ (b) A fee approved ~~[by the Legislature]~~ pursuant to this ~~[Subsection (3)]~~ section  
455 that relates to the use of electronic or other similar technology to provide the services of the  
456 department shall be deposited into the General Fund as a dedicated credit to be used by the  
457 department to provide services through use of electronic commerce or other similar technology.

458 (4) The commissioner shall separately publish the schedule of fees approved by the  
459 Legislature and make it available upon request for \$1 per copy. This fee schedule shall also be  
460 included in any compilation of rules promulgated by the commissioner.

461 (5) The commissioner shall, by rule, establish the deadlines for payment of any fee

462 established by the department in accordance with this section.

463 Section 10. Section **38-11-201** is amended to read:

464 **38-11-201. Residence Lien Recovery Fund.**

465 (1) There is created a restricted special revenue fund called the "Residence Lien  
466 Recovery Fund."

467 (2) (a) The fund consists of all amounts collected by the division in accordance with  
468 Section 38-11-202.

469 (b) (i) The division shall deposit the funds in an account with the state treasurer.

470 (ii) The division shall record the funds in the Residence Lien Recovery Fund.

471 (c) The fund shall earn interest.

472 (3) The division shall employ personnel and resources necessary to administer the fund  
473 and shall use fund monies in accordance with Sections 38-11-203 and 38-11-204 and to pay the  
474 costs charged to the fund by the attorney general.

475 (4) Costs incurred by the division for administering the fund shall be paid out of fund  
476 monies.

477 (5) The Division of Finance shall report annually to the Legislature, the division, and  
478 the board. The report shall state:

479 (a) amounts received by the fund;

480 (b) disbursements from the fund;

481 (c) interest earned and credited to the fund; and

482 (d) the fund balance.

483 (6) (a) For purposes of establishing and assessing [~~regulatory~~] fees under [~~Subsection~~  
484 ~~63J-1-303(5)~~] Section 63J-1-504, the provisions of this chapter are considered a new program  
485 for fiscal year 1995-96.

486 (b) The department shall submit its fee schedule to the Legislature for its approval at  
487 the 1996 Annual General Session.

488 Section 11. Section **53-2-404** is amended to read:

489 **53-2-404. State costs for emergency disaster services.**

490 (1) Subject to this section and Section 53-2-403, the division shall use monies  
491 described in Subsection 53-2-403(1)[~~(c)~~](d)(i) to fund costs to the state of emergency disaster  
492 services.

493 (2) Monies paid by the division under this section to government entities and private  
494 persons providing emergency disaster services are subject to Title 63G, Chapter 6, Utah  
495 Procurement Code.

496 Section 12. Section **63J-1-102** is enacted to read:

497 **CHAPTER 1. BUDGETARY PROCEDURES ACT**

498 **Part 1. General Provisions**

499 **63J-1-102. Definitions.**

500 (1) "Dedicated credits" means collections by an agency that are deposited directly into  
501 an account for expenditure on a separate line item and program.

502 (2) "Federal revenues" means collections by an agency from a federal source that are  
503 deposited into an account for expenditure on a separate line item and program.

504 (3) "Fixed collections" means collections that are:

505 (a) fixed at a specific amount by law or by an appropriation act; and

506 (b) required to be deposited into a separate line item and program.

507 (4) "Free revenue" includes:

508 (a) collections that are required by law to be deposited in:

509 (i) the General Fund;

510 (ii) the Education Fund;

511 (iii) the Uniform School Fund; or

512 (iv) the Transportation Fund;

513 (b) collections that are not otherwise designated by law;

514 (c) collections that are not externally restricted; and

515 (d) collections that are not included in an approved work program.

516 (5) "Major revenue types" means:

517 (a) free revenue;

518 (b) restricted revenue;

519 (c) dedicated credits; and

520 (d) fixed collections.

521 (6) "Restricted revenue" means collections that are:

522 (a) deposited, by law, into a separate fund, subfund, or account; and

523 (b) designated for a specific program or purpose.

524 Section 13. Section **63J-1-104**, which is renumbered from Section 63J-1-404 is  
525 renumbered and amended to read:

526 ~~[63J-1-404].~~ **63J-1-104. Revenue types -- Disposition of funds collected or**  
527 **credited by a state agency.**

528 ~~[(1) (a) The revenues enumerated in this section are established as major revenue~~  
529 ~~types.]~~

530 ~~[(b)]~~ (1) (a) The Division of Finance shall:

531 (i) account for revenues in accordance with generally accepted accounting principles;

532 and

533 (ii) use the major revenue types in internal accounting.

534 ~~[(c)]~~ (b) Each agency shall:

535 (i) use the major revenue types ~~[enumerated in this section]~~ to account for revenues;

536 (ii) deposit revenues and other public funds received by them by following the  
537 procedures and requirements of Title 51, Chapter 7, State Money Management Act; and

538 (iii) expend revenues and public funds as required by this chapter.

539 ~~[(2) The major revenue types are:]~~

540 ~~[(a) free revenue;]~~

541 ~~[(b) restricted revenue;]~~

542 ~~[(c) dedicated credits; and]~~

543 ~~[(d) fixed collections.]~~

544 ~~[(3) (a) Free revenue includes:]~~

545 ~~[(i) collections that are required by law to be deposited in the General Fund, the~~  
546 ~~Education Fund, the Uniform School Fund, or the Transportation Fund;]~~

547 ~~[(ii) collections that are not otherwise designated by law;]~~

548 ~~[(iii) collections that are not externally restricted; and]~~

549 ~~[(iv) collections that are not included in an approved work program.]~~

550 ~~[(b)]~~ (2) (a) Each agency shall deposit its free revenues into the appropriate fund.

551 ~~[(c)]~~ (b) An agency may expend free revenues up to the amount specifically  
552 appropriated by the Legislature.

553 ~~[(d)]~~ (c) Any free revenue funds appropriated by the Legislature to an agency that  
554 remain unexpended at the end of the fiscal year lapse to the source fund unless the Legislature

555 provides by law that those funds are nonlapsing.

556 ~~[(4) (a) Restricted revenues are collections deposited by law into a separate fund or~~  
 557 ~~subfund that are designated for a specific program or purpose.]~~

558 ~~[(b)]~~ (3) (a) Each agency shall deposit its restricted revenues into a restricted fund.

559 ~~[(c)]~~ (b) The Legislature may appropriate restricted revenues from a restricted fund for  
 560 the specific purpose or program designated by law.

561 ~~[(d)]~~ (c) If the fund equity of a restricted fund is insufficient to provide the funds  
 562 appropriated from it by the Legislature, the Division of Finance may reduce the appropriation  
 563 to a level that ensures that the fund equity is not less than zero.

564 ~~[(e)]~~ (d) Any restricted revenue funds appropriated by the Legislature to an agency that  
 565 remain unexpended at the end of the fiscal year lapse to the restricted fund unless the  
 566 Legislature provides by law that those funds, or the program or line item financed by those  
 567 funds, are nonlapsing.

568 ~~[(5) (a) Dedicated credits and federal revenues are collections by an agency that are~~  
 569 ~~deposited directly into an account for expenditure on a separate line item and program.]~~

570 ~~[(b)]~~ (4) (a) An agency may expend dedicated credits for any purpose within the  
 571 program or line item.

572 ~~[(c) (i) An agency may]~~

573 ~~(b) (i) Except as provided in Subsection (4)(b)(ii), an agency may not expend dedicated~~  
 574 ~~credits in excess of the amount appropriated as dedicated credits by the Legislature [by~~  
 575 ~~following the procedures contained in this Subsection (5)(c)].~~

576 ~~[(ii) The agency shall]~~

577 ~~(ii) In order to expend dedicated credits in excess of the amount appropriated as~~  
 578 ~~dedicated credits by the Legislature, the following procedure shall be followed:~~

579 ~~(A) The agency seeking to make the excess expenditure shall:~~

580 ~~(1) develop a new work program [and the justification for the work program and submit~~  
 581 ~~it to the Division of Finance and the director of the Governor's Office of Planning and Budget.~~  
 582 ~~Except for monies deposited as dedicated credits in the Drug Stamp Tax Fund under Section~~  
 583 ~~59-19-105 or line items covering tuition and federal vocational funds at institutions of higher~~  
 584 ~~learning, any expenditure of dedicated credits in excess of amounts appropriated as dedicated~~  
 585 ~~credits by the Legislature may not be used to permanently increase personnel within the agency~~

586 ~~unless approved by the Legislature.] that:~~

587 (Aa) consists of the currently approved work program and the excess expenditure

588 sought to be made; and

589 (Bb) complies with the requirements of Section 63J-2-202;

590 (II) prepare a written justification for the new work program that sets forth the purpose

591 and necessity of the excess expenditure; and

592 (III) submit the new work program and the written justification for the new work  
593 program to the Division of Finance.

594 ~~[(iii)] (B) The Division of Finance [and the director of the Governor's Office of~~  
595 ~~Planning and Budget shall review the program and submit their findings and recommendations~~  
596 ~~to the governor] shall process the new work program with written justification and make this~~  
597 ~~information available to the Governor's Office of Planning and Budget and the legislative fiscal~~  
598 ~~analyst.~~

599 ~~[(iv) The governor may authorize the agency to expend its excess dedicated credits by~~  
600 ~~approving the submitted work program.]~~

601 ~~[(v) The state's fiscal officer shall notify the Legislature by providing notice of the~~  
602 ~~governor's action to the Office of Legislative Fiscal Analyst.]~~

603 (iii) An expenditure of dedicated credits in excess of amounts appropriated as  
604 dedicated credits by the Legislature may not be used to permanently increase personnel within  
605 the agency unless:

606 (A) the increase is approved by the Legislature; or

607 (B) the monies are deposited as dedicated credits in:

608 (I) the Drug Stamp Tax Fund under Section 59-19-105; or

609 (II) a line item covering tuition or federal vocational funds at an institution of higher  
610 education.

611 ~~[(d)] (c) (i) All excess dedicated credits lapse to the appropriate fund at the end of the~~  
612 ~~fiscal year unless the Legislature has designated the entire program or line item that is partially~~  
613 ~~or fully funded from dedicated credits as nonlapsing.~~

614 ~~(ii) The Division of Finance shall determine the appropriate fund into which the~~  
615 ~~dedicated credits lapse.~~

616 ~~[(6) (a) Fixed collections are collections:]~~

617 ~~[(i) fixed by law or by the appropriation act at a specific amount; and]~~

618 ~~[(ii) required by law to be deposited into a separate line item and program.]~~

619 ~~[(b)]~~ (5) (a) The Legislature may establish by law the maximum amount of fixed  
620 collections that an agency may expend.

621 ~~[(c)]~~ (b) If an agency receives less than the maximum amount of expendable fixed  
622 collections established by law, the agency's authority to expend is limited to the amount of  
623 fixed collections that it receives.

624 ~~[(d)]~~ (c) If an agency receives fixed collections greater than the maximum amount of  
625 expendable fixed collections established by law, those excess amounts lapse to the General  
626 Fund, the Education Fund, the Uniform School Fund, or the Transportation Fund as designated  
627 by the director of the Division of Finance at the end of the fiscal year.

628 ~~[(7)(a)]~~ (6) Unless otherwise specifically provided by law, when an agency has a  
629 program or line item that is funded by more than one major revenue type[-];

630 (a) the agency shall expend its dedicated credits and fixed collections first[-]; and

631 (b) ~~[Unless otherwise specifically provided by law, when programs or line items are~~  
632 ~~funded by more than one major revenue type and include]~~ if the program or line item includes  
633 both free revenue and restricted revenue, an agency shall expend those [sources] revenues  
634 based upon a proration of the amounts appropriated from each of those major revenue types.

635 Section 14. Section **63J-1-201** is amended to read:

636 **Part 2. Budget Process, Appropriations and Expenditures**

637 **63J-1-201. Governor to submit budget to Legislature -- Contents -- Preparation --**  
638 **Appropriations based on current tax laws and not to exceed estimated revenues.**

639 (1) The governor shall deliver, not later than 30 days before the date the Legislature  
640 convenes in the annual general session, a confidential draft copy of the governor's proposed  
641 budget recommendations to the Office of the Legislative Fiscal Analyst.

642 ~~[(1)]~~ (2) (a) The governor shall, within ~~[three days after the convening]~~ the first three  
643 days of the annual general session of the Legislature ~~[in the annual general session]~~, submit ~~[a~~  
644 ~~budget for the ensuing fiscal year by delivering it]~~ to the presiding officer of each house of the  
645 Legislature ~~[together with]~~:

646 (i) a proposed budget for the ensuing fiscal year;

647 (ii) a schedule for all of the proposed appropriations of the budget, with each

648 appropriation clearly itemized and classified[-];

649 (iii) the statement described in Subsection (2)(c); and

650 (iv) as applicable, a document showing proposed expenditures and estimated revenues

651 that are based on changes in state tax laws or rates.

652 (b) The proposed budget [~~message~~] shall include:

653 (i) a projection of estimated revenues and expenditures for the next fiscal year; [~~and~~]

654 (ii) the source of all direct, indirect, [~~or~~] and in-kind matching funds for all federal

655 grants or assistance programs included in the budget[-];

656 [~~(2) At least 34 days before the submission of any budget, the governor shall deliver a~~

657 ~~confidential draft copy of the governor's proposed budget recommendations to the Office of the~~

658 ~~Legislative Fiscal Analyst.]~~

659 [~~(3)(a) The budget shall contain]~~

660 (iii) a complete plan of proposed expenditures and estimated revenues for the next

661 fiscal year that is based upon the current fiscal year state tax laws and rates[-];

662 [~~(b) The budget may be accompanied by a separate document showing proposed~~

663 ~~expenditures and estimated revenues based on changes in state tax laws or rates.]~~

664 (iv) an itemized estimate of the proposed appropriations for:

665 (A) the Legislative Department as certified to the governor by the president of the

666 Senate and the speaker of the House;

667 (B) the Executive Department;

668 (C) the Judicial Department as certified to the governor by the state court

669 administrator;

670 (D) payment and discharge of the principal and interest of the indebtedness of the state;

671 (E) the salaries payable by the state under the Utah Constitution or under law for the

672 lease agreements planned for the next fiscal year;

673 (F) other purposes that are set forth in the Utah Constitution or under law; and

674 (G) all other appropriations;

675 (v) for each line item, the average annual dollar amount of staff funding associated

676 with all positions that were vacant during the last fiscal year; and

677 (vi) deficits or anticipated deficits.

678 [~~(4)~~] (c) The budget shall be accompanied by a statement showing:

679           ~~[(a)]~~ (i) the revenues and expenditures for the last fiscal year;

680           ~~[(b)]~~ (ii) the current assets, liabilities, and reserves, surplus or deficit, and the debts and  
681 funds of the state;

682           ~~[(c)]~~ (iii) an estimate of the state's financial condition as of the beginning and the end  
683 of the period covered by the budget;

684           ~~[(d)]~~ (iv) a complete analysis of lease with an option to purchase arrangements entered  
685 into by state agencies;

686           ~~[(e)]~~ (v) the recommendations for each state agency for new full-time employees for  
687 the next fiscal year[;] which ~~[recommendation should be provided also to the State Building~~  
688 ~~Board under]~~ shall also be provided to the State Building Board as required by Subsection  
689 63A-5-103(2);

690           ~~[(f)]~~ (vi) any explanation that the governor may desire to make as to the important  
691 features of the budget and any suggestion as to methods for the reduction of expenditures or  
692 increase of the state's revenue; and

693           ~~[(g) the]~~ (vii) information detailing certain ~~[regulatory]~~ fee increases as required by  
694 Section ~~[63J-1-303]~~ 63J-1-504.

695           ~~[(5) The budget shall include an itemized estimate of the appropriations for:]~~

696           ~~[(a) the Legislative Department as certified to the governor by the president of the~~  
697 ~~Senate and the speaker of the House;]~~

698           ~~[(b) the Executive Department;]~~

699           ~~[(c) the Judicial Department as certified to the governor by the state court~~  
700 ~~administrator;]~~

701           ~~[(d) payment and discharge of the principal and interest of the indebtedness of the~~  
702 ~~state;]~~

703           ~~[(e) the salaries payable by the state under the Utah Constitution or under law for the~~  
704 ~~lease agreements planned for the next fiscal year;]~~

705           ~~[(f) other purposes that are set forth in the Utah Constitution or under law; and]~~

706           ~~[(g) all other appropriations.]~~

707           ~~[(6) Deficits or anticipated deficits shall be included in the budget.]~~

708           ~~[(7)]~~ (3) (a) (i) For the purpose of preparing and reporting the proposed budget, the  
709 governor shall require ~~[from]~~ the proper state officials, including all public and higher

710 education officials, all heads of executive and administrative departments and state institutions,  
711 bureaus, boards, commissions, and agencies expending or supervising the expenditure of the  
712 state ~~[moneys]~~ monies, and all institutions applying for state ~~[moneys]~~ monies and  
713 appropriations, to provide itemized estimates of revenues and expenditures.

714 (ii) ~~[(A)]~~ The governor may also require other information under these guidelines and  
715 at times as the governor may direct~~[-(B) These guidelines]~~, which may include a requirement  
716 for program productivity and performance measures, where appropriate, with emphasis on  
717 outcome indicators.

718 ~~[(b) The estimate for the Legislative Department as certified by the presiding officers~~  
719 ~~of both houses shall be included in the budget without revision by the governor.]~~

720 ~~[(c) The estimate for the Judicial Department, as certified by the state court~~  
721 ~~administrator, shall also be included in the budget without revision, but the governor may make~~  
722 ~~separate recommendations on it.]~~

723 ~~[(d)]~~ (b) The governor may require ~~[the attendance at budget meetings of]~~  
724 representatives of public and higher education, state departments and institutions, and other  
725 institutions or individuals applying for state appropriations to attend budget meetings.

726 (c) (i) (A) In submitting the budgets for the Departments of Health and Human  
727 Services and the Office of the Attorney General, the governor shall consider a separate  
728 recommendation in the governor's budget for funds to be contracted to:

729 (I) local mental health authorities under Section 62A-15-110;

730 (II) local substance abuse authorities under Section 62A-15-110;

731 (III) area agencies under Section 62A-3-104.2;

732 (IV) programs administered directly by and for operation of the Divisions of Substance  
733 Abuse and Mental Health and Aging and Adult Services;

734 (V) local health departments under Title 26A, Chapter 1, Local Health Departments;  
735 and

736 (VI) counties for the operation of Children's Justice Centers under Section 67-5b-102.

737 (B) In the governor's budget recommendations under Subsections (3)(c)(i)(A)(I), (II),  
738 and (III), the governor shall consider an amount sufficient to grant local health departments,  
739 local mental health authorities, local substance abuse authorities, and area agencies the same  
740 percentage increase for wages and benefits that the governor includes in the governor's budget

741 for persons employed by the state.

742 (C) If the governor does not include in the governor's budget an amount sufficient to  
743 grant the increase described in Subsection (3)(c)(i)(B), the governor shall include a message to  
744 the Legislature regarding the governor's reason for not including that amount.

745 (ii) (A) In submitting the budget for the Department of Agriculture, the governor shall  
746 consider an amount sufficient to grant local conservation districts and Utah Association of  
747 Conservation District employees the same percentage increase for wages and benefits that the  
748 governor includes in the governor's budget for persons employed by the state.

749 (B) If the governor does not include in the governor's budget an amount sufficient to  
750 grant the increase described in Subsection (3)(c)(ii)(A), the governor shall include a message to  
751 the Legislature regarding the governor's reason for not including that amount.

752 (iii) (A) In submitting the budget for the Utah State Office of Rehabilitation and the  
753 Division of Services for People with Disabilities, the Division of Child and Family Services,  
754 and the Division of Juvenile Justice Services within the Department of Human Services, the  
755 governor shall consider an amount sufficient to grant employees of corporations that provide  
756 direct services under contract with those divisions, the same percentage increase for  
757 cost-of-living that the governor includes in the governor's budget for persons employed by the  
758 state.

759 (B) If the governor does not include in the governor's budget an amount sufficient to  
760 grant the increase described in Subsection (3)(c)(iii)(A), the governor shall include a message  
761 to the Legislature regarding the governor's reason for not including that amount.

762 (iv) (A) The Families, Agencies, and Communities Together Council may propose a  
763 budget recommendation to the governor for collaborative service delivery systems operated  
764 under Section 63M-9-402, as provided under Subsection 63M-9-201(4)(e).

765 (B) The Legislature may, through a specific program schedule, designate funds  
766 appropriated for collaborative service delivery systems operated under Section 63M-9-402.

767 (v) The governor shall include in the governor's budget the state's portion of the budget  
768 for the Utah Communications Agency Network established in Title 63C, Chapter 7, Utah  
769 Communications Agency Network Act.

770 (vi) (A) The governor shall include a separate recommendation in the governor's  
771 budget for funds to maintain the operation and administration of the Utah Comprehensive

772 Health Insurance Pool.

773 (B) In making the recommendation the governor may consider:

774 (I) actuarial analysis of growth or decline in enrollment projected over a period of at  
775 least three years;

776 (II) actuarial analysis of the medical and pharmacy claims costs projected over a period  
777 of at least three years;

778 (III) the annual Medical Care Consumer Price Index;

779 (IV) the annual base budget for the pool established by the Commerce and Revenue  
780 Appropriations Subcommittee for each fiscal year;

781 (V) the growth or decline in insurance premium taxes and fees collected by the State  
782 Tax Commission and the Insurance Department; and

783 (VI) the availability of surplus General Fund revenue under Section 63J-1-312 and  
784 Subsection 59-14-204(5)(b).

785 ~~[(e)]~~ (d) (i) The governor may revise all estimates, except those relating to the  
786 Legislative Department, the Judicial Department, and those providing for the payment of  
787 principal and interest to the state debt and for the salaries and expenditures specified by the  
788 Utah Constitution or under the laws of the state.

789 (ii) The estimate for the Legislative Department, as certified by the presiding officers  
790 of both houses, shall be included in the budget without revision by the governor.

791 (iii) The estimate for the Judicial Department, as certified by the state court  
792 administrator, shall also be included in the budget without revision, but the governor may make  
793 separate recommendations on the estimate.

794 ~~[(8)]~~ (e) The total appropriations requested for expenditures authorized by the budget  
795 may not exceed the estimated revenues from taxes, fees, and all other sources for the next  
796 ensuing fiscal year.

797 ~~[(9) If any item of the budget as enacted is held invalid upon any ground, the invalidity~~  
798 ~~does not affect the budget itself or any other item in it.]~~

799 ~~[(10) (a) In submitting the budgets for the Departments of Health and Human Services~~  
800 ~~and the Office of the Attorney General, the governor shall consider a separate recommendation~~  
801 ~~in the governor's budget for funds to be contracted to:]~~

802 ~~[(i) local mental health authorities under Section 62A-15-110;]~~

803 ~~[(ii) local substance abuse authorities under Section 62A-15-110;]~~  
804 ~~[(iii) area agencies under Section 62A-3-104.2;]~~  
805 ~~[(iv) programs administered directly by and for operation of the Divisions of Substance~~  
806 ~~Abuse and Mental Health and Aging and Adult Services;]~~  
807 ~~[(v) local health departments under Title 26A, Chapter 1, Local Health Departments;~~  
808 ~~and]~~  
809 ~~[(vi) counties for the operation of Children's Justice Centers under Section 67-5b-102.]~~  
810 ~~[(b) In the governor's budget recommendations under Subsections (10)(a)(i), (ii), and~~  
811 ~~(iii), the governor shall consider an amount sufficient to grant local health departments, local~~  
812 ~~mental health authorities, local substance abuse authorities, and area agencies the same~~  
813 ~~percentage increase for wages and benefits that the governor includes in the governor's budget~~  
814 ~~for persons employed by the state.]~~  
815 ~~[(c) If the governor does not include in the governor's budget an amount sufficient to~~  
816 ~~grant the increase described in Subsection (10)(b), the governor shall include a message to the~~  
817 ~~Legislature regarding the governor's reason for not including that amount.]~~  
818 ~~[(11) (a) In submitting the budget for the Department of Agriculture, the governor shall~~  
819 ~~consider an amount sufficient to grant local conservation districts and Utah Association of~~  
820 ~~Conservation District employees the same percentage increase for wages and benefits that the~~  
821 ~~governor includes in the governor's budget for persons employed by the state.]~~  
822 ~~[(b) If the governor does not include in the governor's budget an amount sufficient to~~  
823 ~~grant the increase described in Subsection (11)(a), the governor shall include a message to the~~  
824 ~~Legislature regarding the governor's reason for not including that amount.]~~  
825 ~~[(12) (a) In submitting the budget for the Utah State Office of Rehabilitation and the~~  
826 ~~Division of Services for People with Disabilities, the Division of Child and Family Services,~~  
827 ~~and the Division of Juvenile Justice Services within the Department of Human Services, the~~  
828 ~~governor shall consider an amount sufficient to grant employees of corporations that provide~~  
829 ~~direct services under contract with those divisions, the same percentage increase for~~  
830 ~~cost-of-living that the governor includes in the governor's budget for persons employed by the~~  
831 ~~state.]~~  
832 ~~[(b) If the governor does not include in the governor's budget an amount sufficient to~~  
833 ~~grant the increase described in Subsection (12)(a), the governor shall include a message to the~~

834 Legislature regarding the governor's reason for not including that amount.]

835 ~~[(13) (a) The Families, Agencies, and Communities Together Council may propose to~~  
836 ~~the governor under Subsection 63M-9-201(4)(c) a budget recommendation for collaborative~~  
837 ~~service delivery systems operated under Section 63M-9-402.]~~

838 ~~[(b) The Legislature may, through a specific program schedule, designate funds~~  
839 ~~appropriated for collaborative service delivery systems operated under Section 63M-9-402.]~~

840 ~~[(14) The governor shall include in the governor's budget the state's portion of the~~  
841 ~~budget for the Utah Communications Agency Network established in Title 63C, Chapter 7,~~  
842 ~~Utah Communications Agency Network Act.]~~

843 ~~[(15) (a) The governor shall include a separate recommendation in the governor's~~  
844 ~~budget for funds to maintain the operation and administration of the Utah Comprehensive~~  
845 ~~Health Insurance Pool.]~~

846 ~~[(b) In making the recommendation the governor may consider:]~~

847 ~~[(i) actuarial analysis of growth or decline in enrollment projected over a period of at~~  
848 ~~least three years;]~~

849 ~~[(ii) actuarial analysis of the medical and pharmacy claims costs projected over a~~  
850 ~~period of at least three years;]~~

851 ~~[(iii) the annual Medical Care Consumer Price Index;]~~

852 ~~[(iv) the annual base budget for the pool established by the Commerce and Revenue~~  
853 ~~Appropriations Subcommittee for each fiscal year;]~~

854 ~~[(v) the growth or decline in insurance premium taxes and fees collected by the tax~~  
855 ~~commission and the insurance department; and]~~

856 ~~[(vi) the availability of surplus General Fund revenue under Section 63J-1-202 and~~  
857 ~~Subsection 59-14-204(5)(b).]~~

858 (4) In considering the factors in Subsections (3)(c)(vi)(B)(I), (II), and (III) and  
859 Subsections (5)(b)(ii)(A), (B), and (C), the governor and the Legislature may consider the  
860 actuarial data and projections prepared for the board of the Utah Comprehensive Health  
861 Insurance Pool as it develops its financial statements and projections for each fiscal year.

862 ~~[(16) (5) (a) In adopting a budget for each fiscal year, the Legislature shall consider an~~  
863 ~~amount sufficient to grant local health departments, local mental health authorities, local~~  
864 ~~substance abuse authorities, area agencies on aging, conservation districts, and Utah~~

865 Association of Conservation District employees the same percentage increase for wages and  
866 benefits that is included in the budget for persons employed by the state.

867 ~~[(17)(a)]~~ (b)(i) In adopting a budget each year for the Utah Comprehensive Health  
868 Insurance Pool, the Legislature shall determine an amount that is sufficient to fund the pool for  
869 each fiscal year.

870 ~~[(b)]~~ (ii) When making a determination under Subsection ~~[(17)(a)]~~ (5)(b)(i), the  
871 Legislature shall consider factors it determines are appropriate, which may include:

872 ~~[(i)]~~ (A) actuarial analysis of growth or decline in enrollment projected over a period of  
873 at least three years;

874 ~~[(ii)]~~ (B) actuarial analysis of the medical and pharmacy claims costs projected over a  
875 period of at least three years;

876 ~~[(iii)]~~ (C) the annual Medical Care Consumer Price Index;

877 ~~[(iv)]~~ (D) the annual base budget for the pool established by the Commerce and  
878 Revenue Appropriations Subcommittee for each fiscal year;

879 ~~[(v)]~~ (E) the growth or decline in insurance premium taxes and fees collected by the tax  
880 commission and the insurance department from the previous fiscal year; and

881 ~~[(vi)]~~ (F) the availability of surplus General Fund revenue under Section ~~[63J-1-202]~~  
882 63J-1-312 and Subsection 59-14-204(5)(b).

883 ~~[(v)]~~ (iii) The funds appropriated by the Legislature to fund the Utah Comprehensive  
884 Health Insurance Pool as determined under Subsection ~~[(17)(a)]~~ (5)(b)(i):

885 ~~[(i)]~~ (A) shall be deposited into the ~~[enterprise]~~ fund established by Section  
886 31A-29-120; and

887 ~~[(ii)]~~ (B) are restricted and are to be used to maintain the operation, administration, and  
888 management of the Utah Comprehensive Health Insurance Pool created by Section  
889 31A-29-104.

890 ~~[(18) In considering the factors in Subsections (15)(b)(i), (ii), and (iii) and Subsections~~  
891 ~~(17)(b)(i), (ii), and (iii), the governor and the Legislature may consider the actuarial data and~~  
892 ~~projections prepared for the board of the Utah Comprehensive Health Insurance Pool as it~~  
893 ~~develops its financial statements and projections for each fiscal year.]~~

894 ~~[(19) The governor shall report, for each line item, the average annual dollar amount of~~  
895 ~~staff funding associated with all positions that were vacant during the last fiscal year.]~~

896 (6) If any item of the budget as enacted is held invalid upon any ground, the invalidity  
897 does not affect the budget itself or any other item in it.

898 Section 15. Section **63J-1-206**, which is renumbered from Section 63J-1-301 is  
899 renumbered and amended to read:

900 ~~[63J-1-301].~~ **63J-1-206. Appropriations governed by chapter --**  
901 **Restrictions on expenditures -- Transfer of funds -- Exclusion.**

902 (1) As used in this section, "work program" means a budget that contains revenues and  
903 expenditures for specific purposes or functions within an item of appropriation.

904 (2) (a) Except as provided in Subsection (2)(b), (3)(e), or where expressly exempted in  
905 the appropriating act:

906 ~~[(1) All moneys]~~ (i) all monies appropriated by the Legislature are appropriated upon  
907 the terms and conditions set forth in this chapter~~];~~ and

908 (ii) any department, agency, or institution~~[, except the Legislature and its committees,~~  
909 ~~or where specifically exempted by the appropriating act, which accepts moneys appropriated by~~  
910 ~~the Legislature;]~~ that accepts monies appropriated by the Legislature does so subject to the  
911 requirements of this chapter.

912 ~~[(2) (a) In providing that certain appropriations are to be expended in accordance with~~  
913 ~~a schedule or other restrictions, if any, set forth after each appropriations item, it is the intent of~~  
914 ~~the Legislature to limit the amount of money to be expended from each appropriations item for~~  
915 ~~certain specified purposes.]~~

916 (b) This section does not apply to:

917 (i) the Legislature and its committees; and

918 (ii) the Investigation Account of the Water Resources Construction Fund, which is  
919 governed by Section 73-10-8.

920 (3) (a) Each appropriation item is to be expended subject to any schedule of programs  
921 and any restriction attached to the appropriation item, as designated by the Legislature.

922 (b) Each schedule of programs or restriction attached to an appropriation item:

923 (i) is a restriction or limitation upon the expenditure of the respective appropriation  
924 made;

925 (ii) does not itself appropriate any money; and

926 (iii) is not itself an item of appropriation.

927 (c) An appropriation or any surplus of any appropriation may not be diverted from any  
 928 department, agency, institution, or division to any other department, agency, institution, or  
 929 division.

930 (d) The money appropriated subject to a schedule or programs or restriction may be  
 931 used only for the purposes authorized.

932 (e) ~~[(i) If any]~~ In order for a department, agency, or institution [for which money is  
 933 appropriated requests the] to transfer [of moneys] monies appropriated to it from one ~~[purpose~~  
 934 ~~or function]~~ program to another ~~[purpose or function]~~ program within an item of appropriation,  
 935 the ~~[director of the Governor's Office of Planning and Budget shall require]~~ following  
 936 procedure shall be followed:

937 (i) The department, agency, or institution seeking to make the transfer shall prepare:

938 (A) a new work program [to be submitted] for the fiscal year involved [setting] that  
 939 consists of the currently approved work program and the transfer sought to be made; and

940 (B) a written justification for the new work program that sets forth the purpose and  
 941 necessity for [such] the transfer.

942 ~~[(ii) The director and fiscal officer shall review the proposed change and submit their~~  
 943 ~~findings and recommendations to the governor, who may permit the transfer.]~~

944 ~~[(iii) The state fiscal officer shall notify the Legislature through the Office of the~~  
 945 ~~Legislative Fiscal Analyst of action taken by the governor.]~~

946 (ii) The Division of Finance shall process the new work program with written  
 947 justification and make this information available to the Governor's Office of Planning and  
 948 Budget and the legislative fiscal analyst.

949 (f) Monies may not be transferred from one item of appropriation to any other item of  
 950 appropriation.

951 ~~[(3) This section does not apply to the Investigation Account of the Water Resources~~  
 952 ~~Construction Fund. The investigation account shall continue to be governed by Section~~  
 953 ~~73-10-8.]~~

954 Section 16. Section **63J-1-209**, which is renumbered from Section 63J-1-406 is  
 955 renumbered and amended to read:

956 ~~[63J-1-406].~~ **63J-1-209. Director of finance to exercise accounting control**  
 957 **-- Work programs -- Allotments and expenditures.**

958 (1) The director of finance shall exercise accounting control over all state departments,  
959 institutions, and agencies other than the Legislature and legislative committees.

960 (2) (a) The director shall require the head of each department to submit, by May 15 of  
961 each year, a work program for the next fiscal year.

962 (b) The director may require any department to submit a work program for any other  
963 period.

964 (3) The work program shall include appropriations and all other funds from any source  
965 made available to the department for its operation and maintenance for the period and program  
966 authorized by the appropriation act.

967 (4) ~~[The director of finance]~~ Subject to the requirements of Subsection  
968 63J-1-206(3)(e), the Division of Finance shall, upon request from the governor, revise, alter,  
969 decrease, or change work programs.

970 (5) Notwithstanding the requirements of Title 63J, Chapter 2, Revenue Procedures and  
971 Control Act, the aggregate of the work program changes may not exceed the total  
972 appropriations or other funds from any source that are available to the department line item for  
973 the fiscal year in question.

974 (6) The ~~[director of finance]~~ Division of Finance shall transmit a copy of the changes,  
975 when approved by the governor, to:

976 (a) the head of the department concerned; and ~~[also a copy to]~~

977 (b) the legislative analyst.

978 (7) Upon request, review, and approval by the governor, the ~~[director of finance]~~  
979 Division of Finance shall permit all expenditures to be made from the appropriations or other  
980 funds from any source on the basis of those work programs.

981 ~~[(8) (a) Except as provided by Subsection (8)(c), the director shall, through statistical~~  
982 ~~sampling methods or other means, examine and approve or disapprove all requisitions and~~  
983 ~~requests for proposed expenditures of the departments.]~~

984 ~~[(b) No requisitions of any of the departments shall be allowed nor shall any obligation~~  
985 ~~be created without the approval and the certification of the director.]~~

986 (8) (a) The Division of Finance shall, through statistical sampling methods or other  
987 means, audit all claims against the state for which an appropriation has been made.

988 ~~[(c)]~~ (b) Notwithstanding the requirements of Subsection (8)(a), the ~~[director]~~ Division

989 of Finance need only certify the availability of funds when the requisitions or proposed  
 990 expenditures are;

991 (i) for the judicial branch; or

992 (ii) to pay the salaries or compensation of officers fixed by law.

993 Section 17. Section **63J-1-215**, which is renumbered from Section 63J-1-311 is  
 994 renumbered and amended to read:

995 ~~[63J-1-311].~~ **63J-1-215. Cash funds -- Application for account --**  
 996 **Preference for purchasing card accounts -- Cash advances -- Revolving fund established**  
 997 **by law excepted -- Elimination of cash funds.**

998 (1) Before any new petty cash funds may be established, the commission, department,  
 999 or agency requesting the fund or funds shall apply in writing to the ~~[state fiscal officer, setting~~  
 1000 ~~out]~~ Division of Finance and provide:

1001 (a) the reasons ~~[for which it]~~ why the cash fund is needed [and];

1002 (b) the amount requested~~[-];~~ and

1003 (c) the reasons why a purchasing card account is not sufficient to meet the needs of the  
 1004 commission, department, or agency.

1005 ~~[(2) The state fiscal officer shall review the application and submit it to the governor~~  
 1006 ~~with the state fiscal officer's recommendations, and the governor may establish the fund or~~  
 1007 ~~funds from moneys in the state treasury.]~~

1008 ~~[(3) The state fiscal officer may, in lieu of establishing petty cash, imprest cash, or~~  
 1009 ~~revolving funds for state institutions of higher education, permit advances to be made from~~  
 1010 ~~allotments to the institutions in sufficient amounts to provide necessary working bank balances~~  
 1011 ~~to facilitate an orderly management of institutional affairs. The institutions shall make reports~~  
 1012 ~~as required by the state fiscal officer for the expenditure of funds included in any advances.]~~

1013 (2) (a) The Division of Finance shall review the application and make a determination  
 1014 that:

1015 (i) no cash fund or purchasing card account should be established;

1016 (ii) a purchasing card account should be established; or

1017 (iii) a cash fund should be established using monies in the state treasury.

1018 (b) When making a determination under Subsection (2)(a), the Division of Finance  
 1019 shall recommend a purchasing card account in lieu of a cash fund unless there is significant

1020 evidence that a purchasing account is not sufficient to meet the needs of the commission,  
1021 department, or agency.

1022 [~~(4)~~] (3) Revolving funds established by law are not subject to the provisions of this  
1023 section.

1024 (4) The Division of Finance is authorized to review and close cash funds if the division  
1025 determines that a purchasing card account will adequately meet the needs of the commission,  
1026 department, or agency.

1027 Section 18. Section **63J-1-217**, which is renumbered from Section 63J-1-405 is  
1028 renumbered and amended to read:

1029 **[63J-1-405]. 63J-1-217. Overexpenditure of budget by agency --**  
1030 **Prorating budget income shortfall.**

1031 (1) [~~In providing for appropriations, the Legislature intends that expenditures]~~  
1032 Expenditures of departments, agencies, and institutions of state government shall be kept  
1033 within revenues available for such expenditures.

1034 (2) (a) [~~The Legislature also intends that line]~~ Line items of appropriation shall not be  
1035 overexpended.

1036 (b) [~~H~~] Notwithstanding Subsection (2)(a), if an agency's line item is overexpended at  
1037 the close of a fiscal year:

1038 (i) the director of the Division of Finance may make payments from the line item to  
1039 vendors for goods or services that were received on or before June 30; and

1040 (ii) the director of the Division of Finance shall immediately reduce the agency's line  
1041 item budget in the current year by the amount of the overexpenditure.

1042 (c) Each agency with an overexpended line item shall [~~produce~~]:

1043 (i) prepare a written report explaining the reasons for the overexpenditure; and [~~shall~~]

1044 (ii) present the report to;

1045 (A) the Board of Examiners as required by Section 63G-9-301[~~;~~]; and

1046 [~~(3) If the total of all revenues accruing in any given fiscal year to the General Fund, or~~  
1047 ~~any other major fund type, collections, or dedicated credits, from which appropriations are~~  
1048 ~~made, are not sufficient to cover the appropriations made for that period, the governor shall~~  
1049 ~~reduce the budgetary allotments and transfer of funds by the amount of the deficiency.]~~

1050 (B) the Office of the Legislative Fiscal Analyst.

1051 (3) (a) As used in this Subsection (3):

1052 (i) "Education Fund budget deficit" has the same meaning as in Section 63J-1-312; and

1053 (ii) "General Fund budget deficit" has the same meaning as in Section 63J-1-312.

1054 (b) If an Education Fund budget deficit or a General Fund budget deficit exists, the

1055 governor shall:

1056 (i) direct state agencies to reduce commitments and expenditures by an amount

1057 proportionate to the amount of the deficiency; and

1058 (ii) direct the Division of Finance to reduce allotments to institutions of higher

1059 education by an amount proportionate to the amount of the deficiency.

1060 (c) The governor's directions under Subsection (3)(b) are rescinded when the

1061 Legislature rectifies the Education Fund budget deficit and the General Fund budget deficit.

1062 (4) (a) ~~[No]~~ A department may not receive ~~[any]~~ an advance ~~[allotment, or allotments~~

1063 ~~in excess of regular monthly allotments,]~~ of funds that cannot be covered by anticipated

1064 revenue within the work program of the fiscal year, unless the governor allocates ~~[moneys]~~

1065 monies from the governor's emergency appropriations.

1066 (b) All allocations made from the governor's emergency appropriations shall be

1067 reported to the budget subcommittee of the Legislative Management Committee by notifying

1068 the Office of the Legislative Fiscal Analyst at least 15 days before the effective date of the

1069 allocation.

1070 (c) Emergency appropriations shall be allocated only to support activities having

1071 existing legislative approval and appropriation, and may not be allocated to any activity or

1072 function rejected directly or indirectly by the Legislature.

1073 Section 19. Section **63J-1-504**, which is renumbered from Section 63J-1-303 is

1074 renumbered and amended to read:

1075 **[63J-1-303]. 63J-1-504. Fees -- Adoption, procedure, and approval --**

1076 **Establishing and assessing fees without legislative approval.**

1077 (1) As used in this section:

1078 (a) (i) "Agency" means each department, commission, board, council, agency,

1079 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,

1080 unit, bureau, panel, or other administrative unit of the state.

1081 (ii) "Agency" does not mean the Legislature or its committees.

1082 (b) "Fee agency" means any agency that is authorized to establish [regulatory] fees.

1083 (c) "Fee schedule" means the complete list of [regulatory] fees charged by a fee agency  
1084 and the amount of those fees.

1085 ~~[(d) "Regulatory fees" means fees established for licensure, registration, or  
1086 certification.]~~

1087 (2) Each fee agency shall:

1088 (a) adopt a schedule of fees assessed for services provided by the fee agency that are:

1089 (i) reasonable, fair, and reflect the cost of services provided; and

1090 (ii) established according to a cost formula determined by the director of the  
1091 Governor's Office of Planning and Budget and the director of the Division of Finance in  
1092 conjunction with the agency seeking to establish the [regulatory] fee;

1093 ~~[(b) conduct a public hearing on any proposed regulatory fee and]~~

1094 (b) (i) present each proposed fee at a public hearing, subject to the requirements of  
1095 Title 52, Chapter 4, Open and Public Meetings Act; and

1096 (ii) increase [or], decrease [the], or affirm each proposed [regulatory] fee based [upon]  
1097 on the results of the public hearing;

1098 (c) except as provided in Subsection (6), submit the fee schedule to the Legislature as  
1099 part of the agency's annual appropriations request;

1100 (d) where necessary, modify the fee schedule to implement the Legislature's actions;  
1101 and

1102 (e) deposit all [regulatory] fees collected under the fee schedule into the General Fund.

1103 (3) A fee agency may not:

1104 (a) set [regulatory] fees by rule; or

1105 (b) charge or collect any [regulatory] fee without approval by the Legislature unless the  
1106 fee agency has complied with the procedures and requirements of Subsection (5).

1107 (4) The Legislature may approve, increase or decrease and approve, or reject any  
1108 [regulatory] fee submitted to it by a fee agency.

1109 (5) (a) After the public hearing required by this section, a fee agency may establish and  
1110 assess [regulatory] fees without legislative approval if:

1111 (i) the Legislature creates a new program that is to be funded by [regulatory] fees to be  
1112 set by the Legislature; and

1113 (ii) the new program's effective date is before the Legislature's next annual general  
1114 session; or

1115 (iii) the Division of Occupational and Professional licensing makes a special  
1116 assessment against qualified beneficiaries under the Residence Lien Restriction and Lien  
1117 Recovery Fund Act as provided in Subsection 38-11-206(1).

1118 (b) Each fee agency shall submit its fee schedule or special assessment amount to the  
1119 Legislature for its approval at a special session, if allowed in the governor's call, or at the next  
1120 annual general session of the Legislature, whichever is sooner.

1121 (c) Unless the fee schedule is approved by the Legislature, the fee agency may not  
1122 collect a [regulatory] fee set according to this subsection after the adjournment of the annual  
1123 general session following the session that established the new program.

1124 (6) (a) Each fee agency that wishes to increase any [regulatory] fee by 5% or more shall  
1125 obtain legislative approval for the fee increase as provided in this subsection before assessing  
1126 the new [regulatory] fee.

1127 (b) Each fee agency that wishes to increase any [regulatory] fee by 5% or more shall  
1128 submit to the governor as part of the agency's annual appropriation request a list that identifies:

1129 (i) the title or purpose of the [regulatory] fee;

1130 (ii) the present amount of the [regulatory] fee;

1131 (iii) the proposed new amount of the [regulatory] fee;

1132 (iv) the percent that the [regulatory] fee will have increased if the Legislature approves  
1133 the higher fee; and

1134 (v) the reason for the increase in the [regulatory] fee.

1135 (c) (i) The governor may review and approve, modify and approve, or reject the  
1136 [regulatory] fee increases.

1137 (ii) The governor shall transmit the list required by Subsection (6)(b), with any  
1138 modifications, to the Legislative Fiscal Analyst with the governor's budget recommendations.

1139 (d) Bills approving any [regulatory] fee increases of 5% or more shall be filed before  
1140 the beginning of the Legislature's annual general session, if possible.

1141 Section 20. Section **63J-1-601**, which is renumbered from Section 63J-1-401 is  
1142 renumbered and amended to read:

1143 ~~**[63J-1-401].**~~ **63J-1-601. End of fiscal year -- Unexpended balances --**

1144 **Funds not to be closed out -- Pending claims -- Transfer of amounts from item of**  
1145 **appropriation -- Nonlapsing accounts and funds -- Institutes of higher education to**  
1146 **report unexpended balances.**

1147 (1) As used in this section, "transaction control number" means the unique numerical  
1148 identifier established by the Department of Health to track each medical claim, which indicates  
1149 the date upon which the claim is entered.

1150 (2) On or before August 31 of each fiscal year, the director of the Division of Finance  
1151 shall close out to the proper fund or account all remaining unexpended and unencumbered  
1152 balances of appropriations made by the Legislature, except:

1153 (a) those funds classified under Title 51, Chapter 5, Funds Consolidation Act as:

1154 (i) enterprise funds;

1155 (ii) internal service funds;

1156 (iii) trust and agency funds;

1157 (iv) capital projects funds;

1158 [~~(v) college and university funds;~~]

1159 (v) discrete component unit funds;

1160 (vi) debt service funds; and

1161 (vii) permanent funds;

1162 [~~(b) appropriations made to the Legislature and its committees;~~]

1163 (b) those revenue collections, appropriations from a fund or account, or appropriations  
1164 to a program that are designated as nonlapsing under Section 63J-1-602;

1165 (c) restricted special revenue funds, unless specifically directed to close out the fund in  
1166 the fund's enabling legislation;

1167 (d) acquisition and development funds appropriated to the Division of Parks and  
1168 Recreation;

1169 (e) funds encumbered to pay purchase orders issued prior to May 1 for capital  
1170 equipment if delivery is expected before June 30; and

1171 (f) unexpended and unencumbered balances of appropriations that meet the  
1172 requirements of Section [~~63J-1-402; and~~] 63J-1-603.

1173 [~~(g) any other appropriations excepted by statute or by an annual appropriations act.]~~

1174 (3) (a) Liabilities and related expenses for goods and services received on or before

1175 June 30 shall be recognized as expenses due and payable from appropriations made prior to  
1176 June 30.

1177 (b) The liability and related expense shall be recognized within time periods  
1178 established by the Division of Finance but shall be recognized not later than August 31.

1179 (c) Liabilities and expenses not so recognized may be paid from regular departmental  
1180 appropriations for the subsequent fiscal year, if these claims do not exceed unexpended and  
1181 unencumbered balances of appropriations for the years in which the obligation was incurred.

1182 (d) No amounts may be transferred from an item of appropriation of any department,  
1183 institution, or agency into the Capital Projects Fund or any other fund without the prior express  
1184 approval of the Legislature.

1185 (4) (a) For purposes of this chapter, claims processed under the authority of Title 26,  
1186 Chapter 18, Medical Assistance Act:

1187 (i) may not be considered a liability or expense to the state for budgetary purposes  
1188 unless they are received by the Division of Health Care Financing within the time periods  
1189 established by the Division of Finance under Subsection (3)(b); and

1190 (ii) are not subject to the requirements of Subsection (3)(c).

1191 (b) The transaction control number recorded on each claim invoice by the division is  
1192 considered the date of receipt.

1193 (5) Any balance from an appropriation to a state institution of higher education that  
1194 remains unexpended at the end of the fiscal year shall be reported to the Division of Finance by  
1195 the September 1 following the close of the fiscal year.

1196 Section 21. Section **63J-1-602** is enacted to read:

1197 **63J-1-602. Nonlapsing accounts and funds.**

1198 (1) The following revenue collections, funds, accounts, appropriations from a fund or  
1199 account, and appropriations to a program are nonlapsing:

1200 (a) appropriations made to the Legislature and its committees;

1201 (b) funds collected by the grain grading program, as provided in Section 4-2-2;

1202 (c) the Salinity Offset Fund created in Section 4-2-8.5;

1203 (d) the Invasive Species Mitigation Fund created in Section 4-2-8.7;

1204 (e) funds collected by pesticide dealer license registration fees, as provided in Section  
1205 4-14-3;

- 1206           (f) funds collected by pesticide applicator business registration fees, as provided in
- 1207 Section 4-14-13;
- 1208           (g) the Rangeland Improvement Fund created in Section 4-20-2;
- 1209           (h) funds deposited as dedicated credits under the Insect Infestation Emergency Control
- 1210 Act, as provided in Section 4-35-6;
- 1211           (i) the Percent-for-Art Program created in Section 9-6-404;
- 1212           (j) the Centennial History Fund created in Section 9-8-604;
- 1213           (k) the Uintah Basin Revitalization Fund, as provided in Section 9-10-108;
- 1214           (l) the Navajo Revitalization Fund created in Section 9-11-104;
- 1215           (m) the LeRay McAllister Critical Land Conservation Program created in Section
- 1216 11-38-301;
- 1217           (n) the Clean Fuels and Vehicle Technology Fund created in Section 19-1-403;
- 1218           (o) fees deposited as dedicated credits for hazardous waste plan reviews, as provided in
- 1219 Section 19-6-120;
- 1220           (p) an appropriation made to the Division of Wildlife Resources for the appraisal and
- 1221 purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6;
- 1222           (q) award monies under the Crime Reduction Assistance Program, as provided under
- 1223 Section 24-1-19;
- 1224           (r) funds collected from the emergency medical services grant program, as provided in
- 1225 Section 26-8a-207;
- 1226           (s) fees and other funding available to purchase training equipment and to administer
- 1227 tests and conduct quality assurance reviews, as provided in Section 26-8a-208;
- 1228           (t) funds collected as a result of a sanction under Section 1919 of Title XIX of the
- 1229 federal Social Security Act, as provided in Section 26-18-3;
- 1230           (u) the Utah Health Care Workforce Financial Assistance Program created in Section
- 1231 26-46-102;
- 1232           (v) monies collected from subscription fees for publications prepared or distributed by
- 1233 the insurance commissioner, as provided in Section 31A-2-208;
- 1234           (w) monies received by the Insurance Department for administering, investigating
- 1235 under, and enforcing the Insurance Fraud Act, as provided in Section 31A-31-108;
- 1236           (x) certain monies received for penalties paid under the Insurance Fraud Act, as

1237 provided in Section 31A-31-109;  
1238 (y) the fund for operating the state's Federal Health Care Tax Credit Program, as  
1239 provided in Section 31A-38-104;  
1240 (z) certain funds in the Department of Workforce Services' program for the education,  
1241 training, and transitional counseling of displaced homemakers, as provided in Section  
1242 35A-3-114;  
1243 (aa) the Employment Security Administration Fund created in Section 35A-4-505;  
1244 (bb) the Special Administrative Expense Fund created in Section 35A-4-506;  
1245 (cc) funding for a new program or agency that is designated as nonlapsing under  
1246 Section 36-24-101;  
1247 (dd) the Oil and Gas Conservation Account created in Section 40-6-14.5;  
1248 (ee) funds available to the State Tax Commission for purchase and distribution of  
1249 license plates and decals, as provided in Section 41-1a-1201;  
1250 (ff) certain fees for the cost of electronic payments under the Motor Vehicle Act, as  
1251 provided in Section 41-1a-1221;  
1252 (gg) certain fees collected for administering and enforcing the Motor Vehicle Business  
1253 Regulation Act, as provided in Section 41-3-601;  
1254 (hh) certain fees for the cost of electronic payments under the Motor Vehicle Business  
1255 Regulation Act, as provided in Section 41-3-604;  
1256 (ii) the Off-Highway Access and Education Restricted Account created in Section  
1257 41-22-19.5;  
1258 (jj) certain fees for the cost of electronic payments under the Motor Vehicle Act, as  
1259 provided in Section 41-22-36;  
1260 (kk) monies collected under the Notaries Public Reform Act, as provided under  
1261 46-1-23;  
1262 (ll) certain funds associated with the Law Enforcement Operations Account, as  
1263 provided in Section 51-9-411;  
1264 (mm) the Public Safety Honoring Heroes Restricted Account created in Section  
1265 53-1-118;  
1266 (nn) funding for the Search and Rescue Financial Assistance Program, as provided in  
1267 Section 53-2-107;

1268           (oo) appropriations made to the Department of Public Safety from the Department of  
1269 Public Safety Restricted Account, as provided in Section 53-3-106;

1270           (pp) appropriations to the Motorcycle Rider Education Program, as provided in Section  
1271 53-3-905;

1272           (qq) fees collected by the State Fire Marshal Division under the Utah Fire Prevention  
1273 and Safety Act, as provided in Section 53-7-314;

1274           (rr) the DNA Specimen Restricted Account created in Section 53-10-407;

1275           (ss) the minimum school program, as provided in Section 53A-17a-105;

1276           (tt) certain funds appropriated from the Uniform School Fund to the State Board of  
1277 Education for new teacher bonus and performance-based compensation plans, as provided in  
1278 Section 53A-17a-148;

1279           (uu) certain funds appropriated from the Uniform School Fund to the State Board of  
1280 Education for implementation of proposals to improve mathematics achievement test scores, as  
1281 provided in Section 53A-17a-152;

1282           (vv) the School Building Revolving Account created in Section 53A-21-401;

1283           (ww) monies received by the State Office of Rehabilitation for the sale of certain  
1284 products or services, as provided in Section 53A-24-105;

1285           (xx) the State Board of Regents, as provided in Section 53B-6-104;

1286           (yy) certain funds appropriated from the General Fund to the State Board of Regents  
1287 for teacher preparation programs, as provided in Section 53B-6-104;

1288           (zz) a certain portion of monies collected for administrative costs under the School  
1289 Institutional Trust Lands Management Act, as provided under Section 53C-3-202;

1290           (aaa) certain surcharges on residence and business telecommunications access lines  
1291 imposed by the Public Service Commission, as provided in Section 54-8b-10;

1292           (bbb) certain fines collected by the Division of Occupational and Professional  
1293 Licensing for violation of unlawful or unprofessional conduct that are used for education and  
1294 enforcement purposes, as provided in Section 58-17b-505;

1295           (ccc) the Nurse Education and Enforcement Fund created in Section 58-31b-103;

1296           (ddd) funding of the controlled substance database, as provided in Section 58-37-7.7;

1297           (eee) the Certified Nurse Midwife Education and Enforcement Fund created in Section  
1298 58-44a-103;

1299 (fff) funding for the building inspector's education program, as provided in Section  
1300 58-56-9;

1301 (ggg) certain fines collected by the Division of Occupational and Professional  
1302 Licensing for use in education and enforcement of the Security Personnel Licensing Act, as  
1303 provided in Section 58-63-103;

1304 (hhh) the Professional Geologist Education and Enforcement Fund created in Section  
1305 58-76-103;

1306 (iii) certain monies in the Water Resources Conservation and Development Fund, as  
1307 provided in Section 59-12-103;

1308 (jjj) funds paid to the Division of Real Estate for the cost of a criminal background  
1309 check for broker and sales agent licenses, as provided in Section 61-2-9;

1310 (kkk) the Utah Housing Opportunity Restricted Account created in Section 61-2-28;

1311 (lll) funds paid to the Division of Real Estate for the cost of a criminal background  
1312 check for a mortgage loan license, as provided in Section 61-2c-202;

1313 (mmm) funds paid to the Division of Real Estate in relation to examination of records  
1314 in an investigation, as provided in Section 61-2c-401;

1315 (nnn) certain funds donated to the Department of Human Services, as provided in  
1316 Section 62A-1-111;

1317 (ooo) certain funds donated to the Division of Child and Family Services, as provided  
1318 in Section 62A-4a-110;

1319 (ppp) the Mental Health Therapist Grant and Scholarship Program, as provided in  
1320 Section 62A-13-109;

1321 (qqq) assessments for DUI violations that are forwarded to an account created by a  
1322 county treasurer, as provided in Section 62A-15-503;

1323 (rrr) appropriations to the Division of Services for People with Disabilities, as provided  
1324 in Section 62A-5-102;

1325 (sss) certain donations to the Division of Substance Abuse and Mental Health, as  
1326 provided in Section 62A-15-103;

1327 (ttt) certain funds received by the Division of Parks and Recreation from the sale or  
1328 disposal of buffalo, as provided under Section 63-11-19.2;

1329 (uuu) revenue for golf user fees at the Wasatch Mountain State Park, Palisades State

1330 Park, or Jordan River State Park, as provided under Section 63-11-19.5;  
1331 (vvv) revenue for golf user fees at the Green River State Park, as provided under  
1332 Section 63-11-19.6;  
1333 (www) the Centennial Nonmotorized Paths and Trail Crossings Program created under  
1334 Section 63-11a-503;  
1335 (xxx) the Bonneville Shoreline Trail Program created under Section 63-11a-504;  
1336 (yyy) the account for the Utah Geological Survey, as provided in Section 63-73-10;  
1337 (zzz) the Risk Management Fund created under Section 63A-4-201;  
1338 (aaaa) the Child Welfare Parental Defense Fund created in Section 63A-11-203;  
1339 (bbbb) the Constitutional Defense Restricted Account created in Section 63C-4-103;  
1340 (cccc) a portion of the funds appropriated to the Utah Seismic Safety Commission, as  
1341 provided in Section 63C-6-104;  
1342 (dddd) funding for the Medical Education Program administered by the Medical  
1343 Education Council, as provided in Section 63C-8-102;  
1344 (eeee) funds collected for publishing the Division of Administrative Rules'  
1345 publications, as provided in Section 63G-3-402;  
1346 (ffff) the appropriation to fund the Governor's Office of Economic Development's  
1347 Enterprise Zone Act, as provided in Section 63M-1-416;  
1348 (gggg) the Tourism Marketing Performance Account, as provided in Section  
1349 63M-1-1406;  
1350 (hhhh) certain funding for rural development provided to the Office of Rural  
1351 Development in the Governor's Office of Economic Development, as provided in Section  
1352 63M-1-1604;  
1353 (iiii) certain monies in the Development for Disadvantaged Rural Communities  
1354 Restricted Account, as provided in Section 63M-1-2003;  
1355 (jjjj) certain monies in the Rural Broadband Service Fund, as provided in Section  
1356 63M-1-2303;  
1357 (kkkk) funds collected from monthly offender supervision fees, as provided in Section  
1358 64-13-21.2;  
1359 (llll) funds collected by the housing of state probationary inmates or state parole  
1360 inmates, as provided in Subsection 64-13e-104(2);

1361 (mmmm) the Sovereign Lands Management account created in Section 65A-5-1;  
1362 (nnnn) certain forestry and fire control funds utilized by the Division of Forestry, Fire,  
1363 and State Lands, as provided in Section 65A-8-103;  
1364 (oooo) the Department of Human Resource Management user training program, as  
1365 provided in Section 67-19-6;  
1366 (pppp) funds for the University of Utah Poison Control Center program, as provided in  
1367 Section 69-2-5.5;  
1368 (qqqq) appropriations to the Transportation Corridor Preservation Revolving Loan  
1369 Fund, as provided in Section 72-2-117;  
1370 (rrrr) appropriations to the Local Transportation Corridor Preservation Fund, as  
1371 provided in Section 72-2-117.5;  
1372 (ssss) appropriations to the Tollway Restricted Special Revenue Fund, as provided in  
1373 Section 77-2-120;  
1374 (tttt) appropriations to the Aeronautics Construction Revolving Loan Fund, as provided  
1375 in Section 77-2-122;  
1376 (uuuu) appropriations to the State Park Access Highways Improvement Program, as  
1377 provided in Section 72-3-207;  
1378 (vvvv) the Traffic Noise Abatement Program created in Section 72-6-112;  
1379 (www) certain funds received by the Office of the State Engineer for well drilling  
1380 finances or bonds, as provided in Section 73-3-25;  
1381 (xxxx) certain monies appropriated to increase the carrying capacity of the Jordan  
1382 River that are transferred to the Division of Parks and Recreation, as provided in Section  
1383 73-10e-1;  
1384 (yyyy) certain fees for the cost of electronic payments under the State Boating Act, as  
1385 provided in Section 73-18-25;  
1386 (zzzz) certain monies appropriated from the Water Resources Conservation and  
1387 Development Fund, as provided in Section 73-23-2;  
1388 (aaaa) the Lake Powell Pipeline Project Operation and Maintenance Fund created in  
1389 Section 73-28-404;  
1390 (bbbb) certain funds in the Water Development and Flood Mitigation Reserve  
1391 Account, as provided in Section 73-103-1;

1392 (ccccc) certain funds appropriated for compensation for special prosecutors, as  
 1393 provided in Section 77-10a-19;  
 1394 (dddd) the Indigent Aggravated Murder Defense Trust Fund created in Section  
 1395 77-32-601;  
 1396 (eeee) the Indigent Felony Defense Trust Fund created in Section 77-32-701;  
 1397 (ffff) funds donated or paid to a juvenile court by private sources, as provided in  
 1398 Subsection 78A-6-203(c);  
 1399 (ggggg) a state rehabilitative employment program, as provided in Section 78A-6-210;  
 1400 and  
 1401 (hhhhh) fees from the issuance and renewal of licenses for certified court interpreters,  
 1402 as provided in Section 78B-1-146.

1403 (2) No revenue collection, fund, account, appropriation from a fund or account, or  
 1404 appropriation to a program may be treated as nonlapsing unless:

- 1405 (a) it is expressly referenced by this section;
- 1406 (b) it is designated in a condition of appropriation in the appropriations bill; or
- 1407 (c) nonlapsing authority is granted under Section 63J-1-603.
- 1408 (3) Each legislative appropriations subcommittee shall review the accounts and funds  
 1409 that have been granted nonlapsing authority under this section or Section 63J-1-603.

1410 Section 22. Section **63J-2-202** is amended to read:

1411 **63J-2-202. Disposition of revenues -- Reporting of balances in dedicated credits**  
 1412 **and fixed collections.**

1413 (1) (a) Each agency shall include in its annual budget request estimates of dedicated  
 1414 credits revenues and fixed collections revenues that are identified by, collected for, or set by the  
 1415 agency.

1416 (b) If the Legislature or the Division of Finance establishes a new revenue type by law,  
 1417 the agency shall include that new revenue type in its budget request for the next fiscal year.

1418 (c) (i) Except as provided in Subsection (1)(c)(ii), if any agency fails to include the  
 1419 estimates of a revenue type in its annual budget request, the Division of Finance shall deposit  
 1420 the monies collected in that revenue type into the General Fund or other appropriate fund as  
 1421 free or restricted revenue.

1422 (ii) The Division of Finance may not deposit the monies collected from a revenue type

1423 not included in an agency's annual budget request into the General Fund or other appropriate  
1424 fund if the agency did not include the estimates of the revenue type in its annual budget request  
1425 because the Legislature had not yet established or authorized the new revenue type by law.

1426 (2) (a) (i) Except as provided in Subsection (2)(b), each agency that receives dedicated  
1427 credits and fixed collections revenues greater than the amount appropriated to them by the  
1428 Legislature in the annual appropriations act may expend the excess up to 25% of the amount  
1429 appropriated if the expenditure is authorized by an amended work program approved as  
1430 provided in Section [~~63J-1-406~~] 63J-1-209. However, except for monies deposited as  
1431 dedicated credits in the Illegal Drug Stamp Tax Fund under Section 59-19-105 or line items  
1432 covering tuition and federal vocational funds at institutions of higher learning, any expenditure  
1433 of dedicated credits in excess of amounts appropriated by the Legislature may not be used to  
1434 permanently increase personnel within the agency unless approved by the Legislature.

1435 (ii) The Division of Finance shall deposit the balance of that excess into the General  
1436 Fund or other appropriate fund as free or restricted revenue.

1437 (b) Notwithstanding the requirements of Subsection (2)(a), when an agency's dedicated  
1438 credits and fixed collections revenues represent over 90% of the budget of the program for  
1439 which they are collected, the agency may expend 100% of the excess of the amount  
1440 appropriated if the expenditure is authorized by an amended work program approved as  
1441 provided in Section [~~63J-1-406~~] 63J-1-209.

1442 (3) Each agency that receives dedicated credits or fixed collections shall report, to the  
1443 Division of Finance, any balances remaining in those funds at the conclusion of each fiscal  
1444 year.

1445 Section 23. Section **67-5-25** is amended to read:

1446 **67-5-25. Litigation Fund for Highway Projects Account.**

1447 (1) There is created within the General Fund a restricted account known as the  
1448 Litigation Fund for Highway Projects Account.

1449 (2) The Litigation Fund for Highway Projects Account consists of:

1450 (a) appropriations made to the account by the Legislature;

1451 (b) transfers to the account from highway project funds as approved by the  
1452 Transportation Commission; and

1453 (c) any donations made to the account.

1454 (3) (a) The state treasurer shall invest monies in the account according to Title 51,  
1455 Chapter 7, State Money Management Act.

1456 (b) The Division of Finance shall deposit interest or other earnings derived from  
1457 investment of account monies into the General Fund.

1458 (4) (a) Upon appropriation by the Legislature, the attorney general shall use monies  
1459 from the account to pay litigation expenses for defending legal actions filed against the state  
1460 that challenge highway projects.

1461 (b) The Legislature intends that monies in the account be appropriated for a project's  
1462 litigation expenses before appropriating funds for litigation expenses from any other source.

1463 (5) The Division of Finance shall:

1464 (a) establish subaccounts within the Litigation Fund for Highway Projects Account to  
1465 hold monies appropriated by the Legislature for litigation expenses for different highway  
1466 projects;

1467 (b) apportion donations received equally among subaccounts unless the donor directs  
1468 that the donation:

1469 (i) be used to defend a specific legal action; or

1470 (ii) be deposited into a specific subaccount; and

1471 (c) apportion interest between subaccounts proportionally based upon the balance of  
1472 each subaccount.

1473 (6) When some or all of the money appropriated to fund litigation expenses for a  
1474 particular highway project is not expended, the Legislature shall[: (a) ~~appropriate those unused~~  
1475 ~~monies to the LeRay McAllister Critical Land Conservation Fund created by Section~~  
1476 ~~11-38-301; or (b)] return the money to the donor.~~

1477 Section 24. Section **70-3a-203** is amended to read:

1478 **70-3a-203. Fees.**

1479 (1) (a) A [regulatory] fee[, as defined in Section 63J-1-303,] shall be determined by the  
1480 division in accordance with the requirements of Section [63J-1-303] 63J-1-504, but may not  
1481 exceed \$250 annually for electronic registration of a mark in a single class.

1482 (b) A person who pays the annual [regulatory] fee for the electronic registration of a  
1483 mark may register additional classes for the same mark for an additional fee not to exceed \$25  
1484 annually.

1485           ~~[(2) (a) For a fee authorized by this chapter that is not a regulatory fee, the division~~  
1486 ~~may adopt a schedule of fees if each fee in the schedule of fees is:]~~

1487           ~~[(i) reasonable and fair; and]~~

1488           ~~[(ii) submitted to the Legislature as part of the Department of Commerce's annual~~  
1489 ~~appropriations request.]~~

1490           ~~[(b) When a fee schedule described in Subsection (2)(a) is submitted as part of the~~  
1491 ~~annual appropriations request, the Legislature, in a manner substantially similar to Section~~  
1492 ~~63J-1-303, may for any fee in the fee schedule:]~~

1493           ~~[(i) approve the fee;]~~

1494           ~~[(ii) (A) increase or decrease the fee; and]~~

1495           ~~[(B) approve the fee as changed by the Legislature; or]~~

1496           ~~[(iii) reject the fee.]~~

1497           ~~[(c)]~~ (2) A fee approved ~~[by the Legislature]~~ pursuant to this section shall be deposited  
1498 in a restricted account within the General Fund known as the Commerce Service Fund.

1499           Section 25. Section **70-3a-302** is amended to read:

1500           **70-3a-302. Application for registration.**

1501           (1) (a) Subject to the limitations in this chapter, any person who uses a mark may file  
1502 with the division an application for registration of that mark.

1503           (b) The registration described in Subsection (1)(a) shall be filed in accordance with  
1504 rules:

1505           (i) made by the division in accordance with Section 70-3a-201; and

1506           (ii) that are consistent with this section.

1507           (c) The application shall:

1508           (i) state:

1509           (A) the name and business address of the person applying for registration;

1510           (B) if a corporation, the state of incorporation; and

1511           (C) if a partnership:

1512           (I) the state where the partnership is organized; and

1513           (II) the names of the general partners, as specified by the division;

1514           (ii) specify:

1515           (A) the goods or services on or in connection with which the mark is used;

- 1516 (B) the mode or manner in which the mark is used on or in connection with those
- 1517 goods or services; and
- 1518 (C) the class defined pursuant to Section 70-3a-308 in which those goods or services
- 1519 fall;
- 1520 (iii) state:
- 1521 (A) the date when the mark was first used anywhere;
- 1522 (B) the date when the mark was first used in this state by the applicant or a predecessor
- 1523 in interest;
- 1524 (C) that the applicant is the owner of the mark;
- 1525 (D) that the mark is in use; and
- 1526 (E) that to the knowledge of the person verifying the application, no other person has
- 1527 registered, either federally or in this state, or has the right to use that mark:
- 1528 (I) in the mark's identical form; or
- 1529 (II) in such near resemblance to the mark as to be likely, when applied to the goods or
- 1530 services of the other person, to cause confusion, mistake, or to deceive;
- 1531 (iv) be signed, including by any signature consistent with the requirement for an
- 1532 electronic signature under 15 U.S.C. Sec. 7001, under penalty of perjury by:
- 1533 (A) the applicant; or
- 1534 (B) if the applicant is not an individual:
- 1535 (I) an officer of the applicant; or
- 1536 (II) a partner of a partnership;
- 1537 (v) be filed with the division;
- 1538 (vi) be accompanied by two specimens showing the mark as actually used; and
- 1539 (vii) be accompanied by a [regulatory] fee as determined by the division in accordance
- 1540 with Section 70-3a-203.
- 1541 (d) In addition to the information required by Subsection (1)(c), the division may
- 1542 require the applicant to provide:
- 1543 (i) a statement as to whether an application to register the mark, or portions or a
- 1544 composite of the mark, has been filed by the applicant or a predecessor in interest in the United
- 1545 States Patent and Trademark Office; or
- 1546 (ii) a drawing of the mark, complying with the requirements the division may specify.

1547 (2) If the division requires the statement under Subsection (1)(d)(i), the applicant shall  
1548 provide full information with respect to any application filed with the United States Patent and  
1549 Trademark Office including:

1550 (a) the filing date and serial number of the application;

1551 (b) the status of the application; and

1552 (c) if any application was finally refused registration or has otherwise not resulted in a  
1553 registration, the reasons for the refusal or lack of registration.

1554 (3) Any materials, information, or signatures required to file an application for a mark  
1555 may be provided through the database created under Section 70-3a-501.

1556 Section 26. Section **70-3a-303** is amended to read:

1557 **70-3a-303. Filing of applications.**

1558 (1) The division may examine an application to determine whether the application  
1559 conforms with this chapter if:

1560 (a) the application for registration is filed under Section 70-3a-302; and

1561 (b) the [regulatory] fee required by Section 70-3a-203 is paid.

1562 (2) If reasonably requested by the division or considered by the applicant to be  
1563 advisable to respond to any rejection or objection, the applicant:

1564 (a) shall provide any additional information requested by rule by the division, including  
1565 a description of a design mark; and

1566 (b) may make, or authorize the division to make, amendments to the application.

1567 (3) (a) The division may require the applicant to disclaim an unregistrable component  
1568 of a mark otherwise registrable.

1569 (b) An applicant may voluntarily disclaim a component of a mark for which the  
1570 applicant has filed a registration application.

1571 (c) A disclaimer under this Subsection (3) may not prejudice or affect the applicant's or  
1572 registrant's rights:

1573 (i) in the disclaimed matter:

1574 (A) existing at the time of the disclaimer; or

1575 (B) arising after the disclaimer; or

1576 (ii) of registration on another application if the disclaimed matter is or has become  
1577 distinctive of the applicant's or registrant's goods or services.

1578 (d) The division may make rules consistent with this Subsection (3) to establish the  
1579 requirements for an applicant to disclaim an unregistrable component of a mark that is  
1580 otherwise registrable.

1581 (4) The division may:

1582 (a) amend an application filed by the applicant if the applicant agrees in writing to the  
1583 amendment; or

1584 (b) require the applicant to file a new application.

1585 (5) (a) If the division determines that the applicant is not qualified to register a mark,  
1586 the division shall notify the applicant of:

1587 (i) the refusal; and

1588 (ii) the reasons for the refusal.

1589 (b) The applicant shall have a reasonable period of time specified by the division, but  
1590 not more than 60 days from the date of the notice under this Subsection (5) to:

1591 (i) reply to the refusal; or

1592 (ii) amend the application for reexamination.

1593 (c) The procedure described in Subsections (5)(a) and (b) may be repeated until:

1594 (i) the division finally refuses registration of the mark; or

1595 (ii) the applicant fails to reply or amend within the time period specified under  
1596 Subsection (5)(b).

1597 (d) If the applicant fails to reply or to amend within the time period specified under  
1598 Subsection (5)(b), the application is considered abandoned.

1599 (6) If the division finally refuses registration of the mark, the refusal shall:

1600 (a) be in writing; and

1601 (b) notify the applicant of the applicant's right to a review of the agency action in  
1602 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

1603 (7) (a) An applicant may file an action to compel registration by obtaining judicial  
1604 review of the final agency action in accordance with Title 63G, Chapter 4, Administrative  
1605 Procedures Act.

1606 (b) The division is not liable for damages in an action to compel registration.

1607 (c) An action to compel registration shall only be granted on proof that:

1608 (i) all the statements in the application for registration are true; and

1609 (ii) the mark is otherwise entitled to registration.

1610 (8) (a) If more than one application is concurrently being processed by the division  
1611 seeking registration of the same or confusingly similar marks for the same or related goods or  
1612 services, the division shall grant priority to the applications in order of filing.

1613 (b) If a prior-filed application is granted a registration, the division shall refuse an  
1614 application filed after the prior-filed application.

1615 (c) An applicant refused under this Subsection (8) may bring an action for cancellation  
1616 of the registration upon grounds of prior or superior rights to the mark.

1617 Section 27. Section **70-3a-305** is amended to read:

1618 **70-3a-305. Duration and renewal.**

1619 (1) The registration of a mark under this chapter expires five years after the date the  
1620 division certifies the registration under Section 70-3a-304.

1621 (2) A registration may be renewed for an additional five years from the date a  
1622 registration expires if the registrant:

1623 (a) files an application with the division:

1624 (i) at least six months before the expiration of the registration; and

1625 (ii) in accordance with the requirements made by rule by the division:

1626 (A) pursuant to Section 70-3a-201; and

1627 (B) consistent with this section; and

1628 (b) pays a renewal [~~regulatory~~] fee determined by the division in accordance with  
1629 Section 70-3a-203.

1630 (3) If a registrant complies with this section, the registrant may renew a mark at the  
1631 expiration of each five-year term.

1632 (4) (a) A registration in effect before May 6, 2002:

1633 (i) shall continue in full force and effect for the registration's unexpired term; and

1634 (ii) may be renewed by:

1635 (A) filing an application for renewal with the division:

1636 (I) within six months before the expiration of the registration; and

1637 (II) in accordance with rules made by the division pursuant to Section 70-3a-201; and

1638 (B) paying the required renewal [~~regulatory~~] fee determined by the division in  
1639 accordance with Section 70-3a-203.

1640 (b) If a registration in effect before May 6, 2002, is renewed in accordance with this  
1641 Subsection (4), the registration shall be renewed for a term of five years.

1642 (5) Any application for renewal under this chapter, whether a registration made under  
1643 this chapter or a registration made under a prior Utah statute, shall include:

1644 (a) a verified statement that the mark has been and is still in use; and

1645 (b) (i) a specimen showing actual use of the mark on or in connection with the goods or  
1646 services; or

1647 (ii) a verified statement that the mark has not changed.

1648 **Section 28. Repealer.**

1649 This bill repeals:

1650 **Section 11-38-303, Commission expenses -- Division of Finance responsibilities --**  
1651 **Investment of monies into the fund -- Interest to accrue to the fund.**

1652 **Section 29. Effective date.**

1653 This bill takes effect on July 1, 2009.

1654 **Section 30. Coordinating H.B. 391 with H.B. 297 -- Superseding amendments.**

1655 If this H.B. 391 and H.B. 297, Budgetary Procedures Act Recodification, both pass, it is  
1656 the intent of the Legislature that the amendments in this H.B. 391 supersede the amendments to  
1657 the same numbered sections in H.B. 297, when the Office of Legislative Research and General  
1658 Counsel prepares the Utah Code database for publication.

1659 **Section 31. Coordinating H.B. 391 with H.B. 400 -- Substantive and technical**  
1660 **amendments.**

1661 If this H.B. 391 and H.B. 400, Pete Suazo Utah Athletic Commission Amendments,  
1662 both pass, it is the intent of the Legislature that, the Office of Legislative Research and General  
1663 Counsel in preparing the Utah Code database for publication, do the following:

1664 (1) insert a new Subsection 63J-1-602(1)(eee) to read:

1665 "(eee) certain monies payable for commission expenses of the Pete Suazo Utah  
1666 Athletic Commission, as provided under Section 63C-11-301;";

1667 (2) the existing Subsection 63J-1-602(1)(eee) be renumbered to 63J-1-602(1)(ffff);

1668 and

1669 (3) the remaining subsections of Subsection 63J-1-602(1) be renumbered accordingly.

1670 **Section 32. Revisor instructions.**

1671           It is the intent of the Legislature that the Office of Legislative Research and General  
1672 Counsel in preparing the Utah Code database for publication, change all internal references in  
1673 the Utah Code to their correctly renumbered cite in Title 63J, Chapter 1, Budgetary Procedures  
1674 Act.

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**Legislative Review Note**  
as of 2-25-09 2:25 PM

**Office of Legislative Research and General Counsel**

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**H.B. 391 - Budgetary Procedures Act Revisions**

**Fiscal Note**

2009 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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