

**GOVERNMENTAL ACCOUNTING AMENDMENTS**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lyle W. Hillyard**

House Sponsor: Ron Bigelow

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**LONG TITLE**

**General Description:**

This bill modifies the name of certain funds in the Utah Code for governmental accounting purposes.

**Highlighted Provisions:**

This bill:

- ▶ changes the name of certain funds to reflect the fact that they are actually restricted accounts within the General Fund;
- ▶ clarifies that money in a restricted account or fund does not lapse to another account or fund unless otherwise specified;

**⚡▶ addresses the disposition of money deposited into the Rural Health Care Facilities Account; ⚡**

▶ provides that certain highway special revenue funds are within the Transportation Fund;

**⚡▶ provides that certain highway special revenue funds are within the Transportation Investment Fund of 2005; ⚡**

▶ establishes the Transportation Investment Fund of 2005 as a major fund type in the Utah Code;

▶ provides that the Uniform School Fund is a special revenue fund within the Education Fund;

▶ deletes obsolete accounts; and

▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

**⚡▶ This bill provides effective dates. ⚡**

S.B. 191



28            **§→ [None] This bill coordinates with S.B. 123 by providing technical amendments. ←§**

29 **Utah Code Sections Affected:**

30 **AMENDS:**

- 31            **4-2-8.6**, as enacted by Laws of Utah 2008, Chapter 245
- 32            **4-2-8.7**, as last amended by Laws of Utah 2009, Chapter 368
- 33            **4-20-1**, as last amended by Laws of Utah 2006, Chapter 294
- 34            **4-20-1.5**, as last amended by Laws of Utah 2008, Chapters 360 and 382
- 35            **4-20-1.6**, as last amended by Laws of Utah 2008, Chapter 156
- 36            **4-20-2**, as last amended by Laws of Utah 2009, Chapters 285 and 368
- 37            **4-20-3**, as last amended by Laws of Utah 2006, Chapter 294
- 38            **9-4-802**, as last amended by Laws of Utah 2008, Chapter 389
- 39            **9-4-803**, as last amended by Laws of Utah 2008, Chapter 389
- 40            **13-1-2**, as last amended by Laws of Utah 2009, Chapter 183
- 41            **13-14-105**, as last amended by Laws of Utah 2009, Chapter 183
- 42            **13-15-3**, as last amended by Laws of Utah 1995, Chapter 85
- 43            **13-34-107**, as last amended by Laws of Utah 2009, Chapter 183
- 44            **13-35-105**, as last amended by Laws of Utah 2009, Chapter 183
- 45            **15-9-117**, as enacted by Laws of Utah 2001, Chapter 237
- 46            **16-10a-1703**, as enacted by Laws of Utah 1992, Chapter 277
- 47            **19-1-307**, as enacted by Laws of Utah 2005, Chapter 10
- 48            **19-3-106.2**, as last amended by Laws of Utah 2005, Chapter 10
- 49            **23-14-13**, as last amended by Laws of Utah 2008, Chapter 389
- 50            **26-2-12.5**, as last amended by Laws of Utah 1995, Chapter 202
- 51            **26-9-4**, as last amended by Laws of Utah 2009, Chapter 368
- 52            **26-18a-1**, as last amended by Laws of Utah 1997, Chapter 1
- 53            **26-18a-3**, as last amended by Laws of Utah 2008, Chapter 389
- 54            **26-18a-4**, as last amended by Laws of Utah 2008, Chapters 382 and 389
- 55            **35A-3-115**, as renumbered and amended by Laws of Utah 1998, Chapter 1
- 56            **35A-4-201**, as last amended by Laws of Utah 2005, Chapter 81
- 57            **35A-4-305**, as last amended by Laws of Utah 2008, Chapter 3
- 58            **35A-4-306**, as last amended by Laws of Utah 1997, Chapter 375

- 59           **35A-4-501**, as last amended by Laws of Utah 2006, Chapter 22
- 60           **35A-4-505**, as last amended by Laws of Utah 1998, Chapter 1
- 61           **35A-4-506**, as last amended by Laws of Utah 1997, Chapter 375
- 62           **35A-4-507**, as renumbered and amended by Laws of Utah 1996, Chapter 240
- 63           **51-5-4**, as last amended by Laws of Utah 2008, Chapter 213
- 64           **51-9-407**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 65           **53-10-602**, as last amended by Laws of Utah 2009, Chapter 64
- 66           **53-10-603**, as last amended by Laws of Utah 2007, Chapter 241
- 67           **53-10-604**, as enacted by Laws of Utah 2004, Chapter 313
- 68           **53-10-605**, as last amended by Laws of Utah 2008, Chapter 384
- 69           **53-10-606**, as enacted by Laws of Utah 2004, Chapter 313
- 70           **53A-16-101**, as last amended by Laws of Utah 2007, Chapters 122 and 180
- 71           **58-31b-103**, as last amended by Laws of Utah 2008, Chapter 214
- 72           **58-31b-503**, as last amended by Laws of Utah 2008, Chapter 214
- 73           **58-37-7.5**, as last amended by Laws of Utah 2009, Chapter 41
- 74           **58-44a-103**, as enacted by Laws of Utah 1998, Chapter 288
- 75           **58-55-503**, as last amended by Laws of Utah 2008, Chapter 382
- 76           **58-56-9.5**, as last amended by Laws of Utah 2008, Chapter 382
- 77           **58-76-103**, as last amended by Laws of Utah 2009, Chapter 183
- 78           **59-1-210**, as last amended by Laws of Utah 2008, Chapters 187 and 382
- 79           **59-7-614.5**, as enacted by Laws of Utah 2009, Chapter 135
- 80           **59-10-1108**, as enacted by Laws of Utah 2009, Chapter 135
- 81           **59-10-1306**, as renumbered and amended by Laws of Utah 2008, Chapter 389
- 82           **59-10-1308**, as renumbered and amended by Laws of Utah 2008, Chapter 389
- 83           **59-21-2**, as last amended by Laws of Utah 2008, Chapters 360 and 382
- 84           **62A-4a-309**, as last amended by Laws of Utah 2009, Chapter 75
- 85           **62A-4a-310**, as renumbered and amended by Laws of Utah 1994, Chapter 260
- 86           **62A-4a-311**, as last amended by Laws of Utah 2009, Chapter 75
- 87           **62A-15-503**, as renumbered and amended by Laws of Utah 2002, Fifth Special Session,
- 88 Chapter 8
- 89           **63A-5-220**, as last amended by Laws of Utah 2009, Chapter 75

- 90           **63B-10-401**, as last amended by Laws of Utah 2002, Chapter 252
- 91           **63J-1-104**, as renumbered and amended by Laws of Utah 2009, Chapters 183 and 368
- 92           **63J-1-602**, as enacted by Laws of Utah 2009, Chapter 368
- 93           **63J-6-203**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 94           **63M-1-902**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 95           **63M-1-903**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 96           **63M-1-904**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 97           **63M-1-905**, as last amended by Laws of Utah 2009, Chapter 183
- 98           **63M-1-906**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 99           **63M-1-908**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 100          **63M-1-909**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 101          **63M-1-1211**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 102          **63M-1-1802**, as last amended by Laws of Utah 2009, Chapter 135
- 103          **63M-1-1803**, as last amended by Laws of Utah 2009, Chapter 135
- 104          **63M-1-1804**, as repealed and reenacted by Laws of Utah 2009, Chapter 135
- 105          **63M-1-2301**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 106          **63M-1-2302**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 107          **63M-1-2303**, as last amended by Laws of Utah 2008, Chapter 216 and renumbered and
- 108 amended by Laws of Utah 2008, Chapter 382
- 109          **63M-1-2304**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 110          **63M-1-2305**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 111          **67-5-25**, as last amended by Laws of Utah 2009, Chapter 368
- 112          **70-3a-203**, as last amended by Laws of Utah 2009, Chapters 183 and 368
- 113          **72-2-106**, as renumbered and amended by Laws of Utah 1998, Chapter 270
- 114          **72-2-120**, as last amended by Laws of Utah 2006, Chapter 36
- 115          **72-2-121**, as last amended by Laws of Utah 2009, Chapter 275
- 116          **72-2-121.1**, as last amended by Laws of Utah 2007, Chapter 10
- 117          **72-2-125**, as last amended by Laws of Utah 2009, Chapter 364
- 118          **72-6-118**, as last amended by Laws of Utah 2008, Chapter 382
- 119          **76-7-317.1**, as last amended by Laws of Utah 2009, Chapter 43
- 120          **78A-2-301**, as last amended by Laws of Utah 2009, Chapters 147 and 149

121 78B-6-209, as renumbered and amended by Laws of Utah 2008, Chapter 3

122 ENACTS:

123 62A-15-502.5, Utah Code Annotated 1953

124 REPEALS:

125 63M-5-202, as renumbered and amended by Laws of Utah 2008, Chapter 382

125a **§→ Utah Code Sections Affected by Coordination Clause:**

125b **63M-1-1803, Utah Code Annotated 1953 ←§**

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

128 Section 1. Section 4-2-8.6 is amended to read:

129 **4-2-8.6. Cooperative agreements and grants to prevent wildland fire.**

130 After consulting with the Department of Natural Resources and the Conservation

131 Commission, the department may:

132 (1) enter into a cooperative agreement with a state agency, a federal agency, or a  
133 federal, state, tribal, or private landowner to prevent catastrophic wildland fire through land  
134 restoration in a watershed that:

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

136 (b) has a fuel load that may contribute to a catastrophic wildland fire;

137 (2) expend monies from the Invasive Species Mitigation [~~Fund~~] Account created in  
138 Section 4-2-8.7; and

139 (3) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
140 make rules to:

141 (a) administer this section; and

142 (b) give grants from the Invasive Species Mitigation [~~Fund~~] Account.

143 Section 2. Section 4-2-8.7 is amended to read:

144 **4-2-8.7. Invasive Species Mitigation Account created.**

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

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

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

149 (2) (a) There is created a [~~general fund~~] restricted account within the General Fund  
150 known as the "Invasive Species Mitigation [~~Fund~~] Account."

151 (b) The [~~fund~~] restricted account shall consist of:

- 152 (i) money appropriated by the Legislature;
- 153 (ii) grants from the federal government; and
- 154 (iii) grants or donations from a person.
- 155 (3) Any unallocated balance in the ~~[fund]~~ restricted account at the end of the year is
- 156 nonlapsing.
- 157 (4) (a) After consulting with the Department of Natural Resources and the
- 158 Conservation Commission, the department may expend ~~[fund monies]~~ money in the restricted
- 159 account:
- 160 (i) on a project implemented by:
- 161 (A) the department; or
- 162 (B) the Conservation Commission; or
- 163 (ii) by giving a grant for a project to:
- 164 (A) a state agency;
- 165 (B) a federal agency; or
- 166 (C) a federal, state, tribal, or private landowner.
- 167 (b) A grant to a federal landowner must be matched with at least an equal amount of
- 168 money by the federal landowner.
- 169 (c) In expending the ~~[fund monies]~~ money authorized by Subsection (4)(a)(i), the
- 170 department shall use existing infrastructure and employees to plan and implement the project.
- 171 (5) In giving a grant, the department shall consider the effectiveness of a project in
- 172 preventing:
- 173 (a) first, the risk to public safety and health from:
- 174 (i) air pollution;
- 175 (ii) flooding; and
- 176 (iii) reduced visibility on a highway;
- 177 (b) second, damage to the environment, including:
- 178 (i) soil erosion;
- 179 (ii) degraded water quality; and
- 180 (iii) release of carbon; and
- 181 (c) third, damage to:
- 182 (i) a local economy; and

183 (ii) habitat for wildlife or livestock.

184 Section 3. Section **4-20-1** is amended to read:

185 **4-20-1. Title -- Definitions.**

186 (1) This chapter is known as the "Rangeland Improvement Act."

187 (2) As used in this chapter:

188 (a) "Cooperative weed management association" means a multigovernmental  
189 association cooperating together to control noxious weeds in a geographic area that includes  
190 some portion of Utah.

191 (b) "Fees" mean the revenue collected by the United States Secretary of Interior from  
192 assessments on livestock using public lands.

193 ~~[(d)]~~ (c) "Grazing district" means an administrative unit of land:

194 (i) designated by the commissioner as being valuable for grazing and for raising forage  
195 crops; and

196 (ii) which consists of any combination of the following:

197 (A) public land;

198 (B) private land;

199 (C) state land; and

200 (D) school and institutional trust land as defined in Section 53C-1-103.

201 ~~[(e)]~~ (d) "Public lands" mean vacant, unappropriated, reserved, and unreserved federal  
202 lands.

203 ~~[(f)]~~ (e) "Regional board" means a regional grazing advisory board whose members are  
204 appointed under Section 4-20-1.6.

205 ~~[(e)]~~ (f) ~~["Fund"]~~ "Restricted account" means the Rangeland Improvement ~~[Fund]~~  
206 Account created in Section 4-20-2.

207 (g) "Sales" or "leases" mean the sale or lease, respectively, of isolated or disconnected  
208 tracts of public lands by the United States Secretary of Interior.

209 (h) "State board" means the State Grazing Advisory Board created under Section  
210 4-20-1.5.

211 Section 4. Section **4-20-1.5** is amended to read:

212 **4-20-1.5. State Grazing Advisory Board -- Duties.**

213 (1) (a) There is created within the department the State Grazing Advisory Board.

- 214 (b) The commissioner shall appoint the following members:
- 215 (i) one member from each regional board;
- 216 (ii) one member from the Conservation Commission created in Section 4-18-4;
- 217 (iii) one representative of the Department of Natural Resources;
- 218 (iv) two livestock producers at-large; and
- 219 (v) one representative of the oil, gas, or mining industry.
- 220 (2) The term of office for a state board member is four years.
- 221 (3) Members of the state board shall elect a chair, who shall serve for two years.
- 222 (4) (a) (i) A member who is not a government employee may not receive compensation
- 223 or benefits for the member's service, but may receive per diem and expenses incurred in the
- 224 performance of the member's official duties at the rates established by the Division of Finance
- 225 under Sections 63A-3-106 and 63A-3-107.
- 226 (ii) A member may decline to receive per diem and expenses for the member's service.
- 227 (b) (i) A state government officer and employee member who does not receive salary,
- 228 per diem, or expenses from the agency the member represents for the member's service may
- 229 receive per diem and expenses incurred in the performance of the member's official duties at
- 230 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
- 231 (ii) A state government officer and employee member may decline to receive per diem
- 232 and expenses for the member's service.
- 233 (c) (i) A local government member who does not receive salary, per diem, or expenses
- 234 from the entity that the member represents for the member's service may receive per diem and
- 235 expenses incurred in the performance of the member's official duties at the rates established by
- 236 the Division of Finance under Sections 63A-3-106 and 63A-3-107.
- 237 (ii) A local government member may decline to receive per diem and expenses for the
- 238 member's service.
- 239 (5) The state board shall:
- 240 (a) receive:
- 241 (i) advice and recommendations from a regional board concerning:
- 242 (A) management plans for public lands, state lands, and school and institutional trust
- 243 lands as defined in Section 53C-1-103, within the regional board's region; and
- 244 (B) any issue that impacts grazing on private lands, public lands, state lands, or school

245 and institutional trust lands as defined in Section 53C-1-103, in its region; and  
246 (ii) requests for [~~fund monies~~] restricted account money from the entities described in  
247 Subsections (5)(c)(i) through (iv);

248 (b) recommend state policy positions and cooperative agency participation in federal  
249 and state land management plans to the department and to the Public Lands Policy  
250 Coordinating Office created under Section 63J-4-602; and

251 (c) advise the department on the requests and recommendations of:

252 (i) regional boards;

253 (ii) county weed control boards created under Section 4-17-4;

254 (iii) cooperative weed management associations; and

255 (iv) conservation districts created under the authority of Title 17D, Chapter 3,  
256 Conservation District Act.

257 Section 5. Section **4-20-1.6** is amended to read:

258 **4-20-1.6. Regional Grazing Advisory Boards -- Duties.**

259 (1) The commissioner shall appoint members to a regional board for each grazing  
260 district from nominations submitted by:

261 (a) the Utah Cattlemen's Association;

262 (b) the Utah Woolgrower's Association;

263 (c) the Utah Farm Bureau Federation; and

264 (d) a conservation district, if the conservation district's boundaries include some  
265 portion of the grazing district.

266 (2) Regional boards:

267 (a) shall provide advice and recommendations to the state board; and

268 (b) may receive monies from the Rangeland Improvement [~~Fund~~] Account created in  
269 Section 4-20-2.

270 (3) If a regional board receives monies as authorized by Subsection (2)(b), the regional  
271 board shall elect a treasurer to expend the monies:

272 (a) as directed by the regional board; and

273 (b) in accordance with Section 4-20-3.

274 (4) (a) A treasurer elected in accordance with Subsection (3) shall, for the faithful  
275 performance of the treasurer's official duties, file with the department:

276 (i) a \$5,000 corporate surety bond; or

277 (ii) a \$10,000 personal surety bond.

278 (b) The regional board shall pay the premium for the bond required by Subsection

279 (4)(a) from the monies received under Subsection (2)(b).

280 Section 6. Section 4-20-2 is amended to read:

281 **4-20-2. Rangeland Improvement Account -- Administered by department.**

282 (1) (a) There is created a ~~[general fund restricted account]~~ restricted account within the  
283 General Fund known as the "Rangeland Improvement ~~[Fund]~~ Account."

284 (b) The ~~[fund]~~ restricted account shall consist of:

285 (i) ~~[all monies]~~ money received by the state from the United States Secretary of Interior  
286 under the Taylor Grazing Act, 43 U.S.C. Section 315 et seq., for sales, leases, and fees;

287 (ii) grants or appropriations from the state or federal government; and

288 (iii) grants from private foundations.

289 (c) ~~[Any interest]~~ Interest earned on the ~~[fund]~~ restricted account shall be deposited  
290 into the General Fund.

291 (2) Any unallocated balance in the ~~[fund]~~ restricted account at the end of a fiscal year is  
292 nonlapsing.

293 (3) The department shall:

294 (a) administer the ~~[fund]~~ restricted account;

295 (b) obtain from the United States Department of Interior the receipts collected from:

296 (i) fees in each grazing district; and

297 (ii) the receipts collected from the sale or lease of public lands; and

298 (c) distribute ~~[fund monies]~~ restricted account money in accordance with Section  
299 4-20-3.

300 Section 7. Section 4-20-3 is amended to read:

301 **4-20-3. Rangeland Improvement Account distribution.**

302 (1) The department shall distribute ~~[fund monies]~~ restricted account money as provided  
303 in this section.

304 (a) The department shall:

305 (i) distribute pro rata to each school district the monies received by the state under  
306 Subsection 4-20-2(1)(b)(i) from the sale or lease of public lands based upon the amount of

307 revenue generated from the sale or lease of public lands within the district; and

308 (ii) ensure that all monies generated from the sale or lease of public lands within a  
309 school district are credited and deposited to the general school fund of that school district.

310 (b) (i) After the commissioner approves a request from a regional board, the  
311 department shall distribute pro rata to each regional board monies received by the state under  
312 Subsection 4-20-2(1)(b)(i) from fees based upon the amount of revenue generated from the  
313 imposition of fees within that grazing district.

314 (ii) The regional board shall expend monies received in accordance with Subsection  
315 (2).

316 (c) (i) The department shall distribute or expend monies received by the state under  
317 Subsections 4-20-2(1)(b)(ii) through (iv) for the purposes outlined in Subsection (2).

318 (ii) The department may require entities seeking funding from sources outlined in  
319 Subsections 4-20-2(1)(b)(ii) through (iv) to provide matching funds.

320 (2) The department shall ensure that ~~fund~~ restricted account distributions or  
321 expenditures under Subsections (1)(b) and (c) are used for:

322 (a) range improvement and maintenance;

323 (b) the control of predatory and depredating animals;

324 (c) the control, management, or extermination of invading species, range damaging  
325 organisms, and poisonous or noxious weeds;

326 (d) the purchase or lease of lands for the benefit of a grazing district;

327 (e) watershed protection, development, distribution, and improvement; and

328 (f) the general welfare of livestock grazing within a grazing district.

329 Section 8. Section **9-4-802** is amended to read:

330 **9-4-802. Purposes of Homeless Coordinating Committee -- Uses of Pamela**

331 **Atkinson Homeless Account.**

332 (1) (a) The Homeless Coordinating Committee shall work to ensure that services  
333 provided to the homeless by state agencies, local governments, and private organizations are  
334 provided in a cost-effective manner.

335 (b) Programs funded by the committee shall emphasize emergency housing and  
336 self-sufficiency, including placement in meaningful employment or occupational training  
337 activities and, where needed, special services to meet the unique needs of the homeless who

338 have families with children, or who are mentally ill, disabled, or suffer from other serious  
339 challenges to employment and self-sufficiency.

340 (c) The committee may also fund treatment programs to ameliorate the effects of  
341 substance abuse or a disability.

342 (2) The committee members designated in Subsection 9-4-801(2) shall:

343 (a) award contracts funded by the Pamela Atkinson Homeless [Trust] Account with the  
344 advice and input of those designated in Subsection 9-4-801(3);

345 (b) consider need, diversity of geographic location, coordination with or enhancement  
346 of existing services, and the extensive use of volunteers; and

347 (c) give priority for funding to programs that serve the homeless who are mentally ill  
348 and who are in families with children.

349 (3) (a) In any fiscal year, no more than 80% of the funds in the Pamela Atkinson  
350 Homeless [Trust] Account may be allocated to organizations that provide services only in Salt  
351 Lake, Davis, Weber, and Utah Counties.

352 (b) The committee may:

353 (i) expend up to 3% of its annual appropriation for administrative costs associated with  
354 the allocation of funds from the Pamela Atkinson Homeless [Trust] Account, and up to 2% of  
355 its annual appropriation for marketing the account and soliciting donations to the account; and

356 (ii) pay for the initial costs of the State Tax Commission in implementing Section  
357 59-10-1306 from the account.

358 (4) (a) The committee may not expend, except as provided in Subsection (4)(b), an  
359 amount equal to the greater of \$50,000 or 20% of the amount donated to the Pamela Atkinson  
360 Homeless [Trust] Account during fiscal year 1988-89.

361 (b) If there are decreases in contributions to the account, the committee may expend  
362 funds held in [~~reserve~~] the account to provide program stability, but the committee shall  
363 reimburse the amounts of those expenditures to the [~~reserve fund~~] account.

364 (5) The committee shall make an annual report to the Economic Development and  
365 Human Resources Appropriations Subcommittee regarding the programs and services funded  
366 by contributions to the Pamela Atkinson Homeless [Trust] Account.

367 (6) The moneys in the Pamela Atkinson Homeless [Trust] Account shall be invested by  
368 the state treasurer according to the procedures and requirements of Title 51, Chapter 7, State

369 Money Management Act, except that all interest or other earnings derived from the [fund  
370 moneys] restricted account shall be deposited in the [fund] restricted account.

371 Section 9. Section **9-4-803** is amended to read:

372 **9-4-803. Creation of Pamela Atkinson Homeless Account.**

373 (1) There is created a restricted account within the General Fund [~~to be~~] known as the  
374 "Pamela Atkinson Homeless [~~Trust~~] Account."

375 (2) Private contributions received under this section and Section 59-10-1306 shall be  
376 deposited into the restricted account to be used only for programs described in Section 9-4-802.

377 (3) Money shall be appropriated from the restricted account to the State Homeless  
378 Coordinating Committee in accordance with the Utah Budgetary Procedures Act.

379 (4) The State Homeless Coordinating Committee may accept transfers, grants, gifts,  
380 bequests, or any money made available from any source to implement this part.

381 Section 10. Section **13-1-2** is amended to read:

382 **13-1-2. Creation and functions of department -- Divisions created -- Fees --**  
383 **Commerce Service Account.**

384 (1) (a) There is created the Department of Commerce.

385 (b) The department shall execute and administer state laws regulating business  
386 activities and occupations affecting the public interest.

387 (2) Within the department the following divisions are created:

388 (a) the Division of Occupational and Professional Licensing;

389 (b) the Division of Real Estate;

390 (c) the Division of Securities;

391 (d) the Division of Public Utilities;

392 (e) the Division of Consumer Protection; and

393 (f) the Division of Corporations and Commercial Code.

394 (3) (a) Unless otherwise provided by statute, the department may adopt a schedule of  
395 fees assessed for services provided by the department by following the procedures and  
396 requirements of Section 63J-1-504.

397 (b) The department shall submit each fee established in this manner to the Legislature  
398 for its approval as part of the department's annual appropriations request.

399 (c) (i) [~~All fees collected by each division and by the department shall be deposited in]~~

400 There is created a restricted account within the General Fund known as the "Commerce Service  
401 ~~[Fund:]~~ Account."

402 (ii) The restricted account created in Subsection (3)(c)(i) consists of fees collected by  
403 each division and by the department.

404 ~~[(ii)]~~ (iii) At the end of each fiscal year, the director of the Division of Finance shall  
405 transfer into the General Fund any fee collections that are greater than the legislative  
406 appropriations from the Commerce Service ~~[Fund]~~ Account for that year.

407 (d) The department may not charge or collect ~~[any fee nor expend monies from this~~  
408 ~~fund]~~ a fee or expend money from the restricted account without approval by the Legislature.

409 Section 11. Section **13-14-105** is amended to read:

410 **13-14-105. Registration -- Fees.**

411 (1) A franchisee or franchisor doing business in this state shall:

412 (a) annually register or renew its registration with the department in a manner  
413 established by the department; and

414 (b) pay an annual registration fee in an amount determined by the department in  
415 accordance with Sections 13-1-2 and 63J-1-504.

416 (2) The department shall register or renew the registration of a franchisee or franchisor  
417 if the franchisee or franchisor complies with this chapter and rules made by the department  
418 under this chapter.

419 (3) A franchisee or franchisor registered under this section shall comply with this  
420 chapter and any rules made by the department under this chapter including any amendments to  
421 this chapter or the rules made after a franchisee or franchisor enter into a franchise agreement.

422 (4) The fee imposed under Subsection (1)(b) shall be collected by the department and  
423 deposited into the Commerce Service ~~[Fund]~~ Account created by Section 13-1-2.

424 (5) Notwithstanding Subsection (1), an agent, officer, or field or area representative of  
425 a franchisor does not need to be registered under this section if the franchisor is registered  
426 under this section.

427 Section 12. Section **13-15-3** is amended to read:

428 **13-15-3. Administration and enforcement -- Powers -- Legal counsel -- Fees.**

429 (1) The division shall administer and enforce this chapter. In the exercise of its  
430 responsibilities, the division shall enjoy the powers, and be subject to the constraints, set forth

431 in Title 13, Chapter 2, Division of Consumer Protection.

432 (2) The attorney general, upon request, shall give legal advice to, and act as counsel  
433 for, the division in the exercise of its responsibilities under this chapter.

434 (3) All fees collected under this chapter shall be deposited in the Commerce Service  
435 ~~Fund~~ Account created by Section 13-1-2.

436 Section 13. Section **13-34-107** is amended to read:

437 **13-34-107. Advertising, recruiting, or operating a proprietary school -- Required**  
438 **registration statement or exemption -- Certificate of registration -- Registration does not**  
439 **constitute endorsement.**

440 (1) (a) Unless an institution complies with Subsection (1)(b), the institution may not do  
441 any of the following in this state:

- 442 (i) advertise a proprietary school;
- 443 (ii) recruit students for a proprietary school; or
- 444 (iii) operate a proprietary school.

445 (b) An institution may not engage in an activity described in Subsection (1)(a) unless  
446 the institution:

447 (i) (A) files with the division a registration statement relating to the proprietary school  
448 that is in compliance with:

- 449 (I) applicable rules made by the division; and
- 450 (II) the requirements set forth in this chapter; and
- 451 (B) obtains a certificate of registration; or
- 452 (ii) establishes an exemption with the division.

453 (2) (a) The registration statement or exemption described in Subsection (1) shall be:

454 (i) verified by the oath or affirmation of the owner or a responsible officer of the  
455 proprietary school filing the registration statement or exemption; and

456 (ii) include a certification as to whether any of the following has violated laws, federal  
457 regulations, or state rules as determined in a criminal, civil, or administrative proceeding:

- 458 (A) the proprietary school; or
- 459 (B) any of the following with respect to the proprietary school:
  - 460 (I) an owner;
  - 461 (II) an officer;

- 462 (III) a director;
- 463 (IV) an administrator;
- 464 (V) a faculty member;
- 465 (VI) a staff member; or
- 466 (VII) an agent.
- 467 (b) The proprietary school shall:
  - 468 (i) make available, upon request, a copy of the registration statement, showing the date
  - 469 upon which it was filed; and
  - 470 (ii) display the certificate of registration obtained from the division in a conspicuous
  - 471 place on the proprietary school's premises.
- 472 (3) (a) A registration statement and the accompanying certificate of registration are not
- 473 transferable.
- 474 (b) In the event of a change in ownership or in the governing body of the proprietary
- 475 school, the new owner or governing body, within 30 days after the change, shall file a new
- 476 registration statement.
- 477 (4) Except as provided in Subsection (3)(b), a registration statement or a renewal
- 478 statement and the accompanying certificate of registration are effective for a period of two
- 479 years after the date of filing and issuance.
- 480 (5) (a) The division shall establish a graduated fee structure for the filing of registration
- 481 statements by various classifications of institutions pursuant to Section 63J-1-504.
- 482 (b) Fees are not refundable.
- 483 (c) Fees shall be deposited in the Commerce Service [~~Fund pursuant to~~] Account
- 484 created by Section 13-1-2.
- 485 (6) (a) Each proprietary school shall:
  - 486 (i) demonstrate fiscal responsibility at the time the proprietary school files its
  - 487 registration statement as prescribed by rules of the division; and
  - 488 (ii) provide evidence to the division that the proprietary school:
    - 489 (A) is financially sound; and
    - 490 (B) can reasonably fulfill commitments to and obligations the proprietary school has
    - 491 incurred with students and creditors.
- 492 (b) A proprietary school applying for an initial certificate of registration to operate

493 shall prepare and submit financial statements and supporting documentation as requested by  
494 the division.

495 (c) A proprietary school applying for renewal of a certificate of registration to operate  
496 or renewal under new ownership must provide audited financial statements.

497 (d) The division may require evidence of financial status at other times when it is in the  
498 best interest of students to require such information.

499 (7) (a) A proprietary school applying for an initial certificate of registration or seeking  
500 renewal shall provide in a form approved by the division:

501 (i) a surety bond;

502 (ii) a certificate of deposit; or

503 (iii) an irrevocable letter of credit.

504 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
505 division may make rules providing for:

506 (i) the amount of the bond, certificate, or letter of credit required under Subsection  
507 (7)(a), not to exceed in amount the anticipated tuition and fees to be received by the proprietary  
508 school during a school year;

509 (ii) the execution of the bond, certificate, or letter of credit;

510 (iii) cancellation of the bond, certificate, or letter of credit during or at the end of the  
511 registration term; and

512 (iv) any other matters related to providing the bond, certificate, or letter of credit  
513 required under Subsection (7)(a).

514 (c) The bond, certificate, or letter of credit shall be used as a protection against loss of  
515 advanced tuition, book fees, supply fees, or equipment fees:

516 (i) collected by the proprietary school from a student or a student's parent, guardian, or  
517 sponsor prior to the completion of the program or courses for which it was collected; or

518 (ii) for which the student is liable.

519 (8) (a) Except as provided in Section 13-34-113, the division may not refuse  
520 acceptance of a registration statement that is:

521 (i) tendered for filing and, based on a preliminary review, appears to be in compliance  
522 with Subsections (1), (2), and (6); and

523 (ii) accompanied by:

- 524 (A) the required fee; and
- 525 (B) one of the following required by Subsection (7):
- 526 (I) surety bond;
- 527 (II) certificate of deposit; or
- 528 (III) irrevocable letter of credit.
- 529 (b) A certificate of registration is effective upon the date of issuance.
- 530 (c) The responsibility of compliance is upon the proprietary school and not upon the
- 531 division.
- 532 (d) (i) If it appears to the division that a registration statement on file may not be in
- 533 compliance with this chapter, the division may advise the proprietary school as to the apparent
- 534 deficiencies.
- 535 (ii) After a proprietary school has been notified of a deficiency under Subsection
- 536 (8)(d)(i), a new or amended statement may be presented for filing by the proprietary school,
- 537 accompanied by:
- 538 (A) the required fee; and
- 539 (B) one of the following required by Subsection (7):
- 540 (I) surety bond;
- 541 (II) certificate of deposit; or
- 542 (III) irrevocable letter of credit.
- 543 (9) The following does not constitute and may not be represented by any person to
- 544 constitute, an endorsement or approval of the proprietary school by either the division or the
- 545 state:
- 546 (a) an acceptance of:
- 547 (i) a registration statement;
- 548 (ii) a renewal statement; or
- 549 (iii) an amended registration statement; and
- 550 (b) issuance of a certificate of registration.
- 551 Section 14. Section **13-35-105** is amended to read:
- 552 **13-35-105. Registration -- Fees.**
- 553 (1) A franchisee or franchisor doing business in this state shall:
- 554 (a) annually register or renew its registration with the department in a manner

555 established by the department; and

556 (b) pay an annual registration fee in an amount determined by the department in  
557 accordance with Sections 13-1-2 and 63J-1-504.

558 (2) The department shall register or renew the registration of a franchisee or franchisor  
559 if the franchisee or franchisor complies with this chapter and rules made by the department  
560 under this chapter.

561 (3) A franchisee or franchisor registered under this section shall comply with this  
562 chapter and any rules made by the department under this chapter including any amendments to  
563 this chapter or the rules made after a franchisee or franchisor enter into a franchise agreement.

564 (4) The fee imposed under Subsection (1)(b) shall be collected by the department and  
565 deposited into the Commerce Service ~~[Fund]~~ Account created by Section 13-1-2.

566 (5) Notwithstanding Subsection (1), an agent, officer, or field or area representative of  
567 a franchisor does not need to be registered under this section if the franchisor is registered  
568 under this section.

569 Section 15. Section **15-9-117** is amended to read:

570 **15-9-117. Civil and administrative penalty.**

571 (1) The division may assess a civil penalty against an athlete agent not to exceed  
572 \$25,000 for a violation of this chapter.

573 (2) An administrative penalty collected under Subsection (1) shall be deposited into the  
574 Commerce Service ~~[Fund]~~ Account created in Section 13-1-2.

575 Section 16. Section **16-10a-1703** is amended to read:

576 **16-10a-1703. Publication.**

577 (1) The division shall annually publish copies of this chapter, together with applicable  
578 annotations and commentary, for sale and distribution to the public.

579 (2) The division may charge a reasonable amount for copies of the chapter sold or  
580 distributed.

581 (3) The proceeds from all sales and distributions shall be deposited into the Commerce  
582 Service ~~[Fund]~~ Account created by Section 13-1-2, and may be appropriated to the division for  
583 use in defraying past or future production, publication, republication, or distribution costs.

584 Section 17. Section **19-1-307** is amended to read:

585 **19-1-307. Evaluation of closure, postclosure, and perpetual care and maintenance**

586 **for hazardous waste and radioactive waste treatment and disposal facilities -- Report.**

587 (1) (a) Beginning in 2006, the Solid and Hazardous Waste Control Board created in  
588 Section 19-1-106 shall direct an evaluation every five years of:

589 (i) the adequacy of the amount of financial assurance required for closure and  
590 postclosure care under 40 C.F.R. subpart H, Sections 264.140 through 264.151 submitted  
591 pursuant to a hazardous waste operation plan for a commercial hazardous waste treatment,  
592 storage, or disposal facility under Section 19-6-108; and

593 (ii) the adequacy of the amount of financial assurance or funds required for perpetual  
594 care and maintenance following the closure and postclosure period of a commercial hazardous  
595 waste treatment, storage, or disposal facility, if found necessary following the evaluation under  
596 Subsection (1)(c).

597 (b) The evaluation shall determine:

598 (i) whether the amount of financial assurance required is adequate for closure and  
599 postclosure care of hazardous waste treatment, storage, or disposal facilities;

600 (ii) whether the amount of financial assurance or funds required is adequate for  
601 perpetual care and maintenance following the closure and postclosure period of a commercial  
602 hazardous waste treatment, storage, or disposal facility, if found necessary following the  
603 evaluation under Subsection (1)(c); and

604 (iii) the costs above the minimal maintenance and monitoring for reasonable risks that  
605 may occur during closure, postclosure, and perpetual care and maintenance of commercial  
606 hazardous waste treatment, storage, or disposal facilities including:

607 (A) groundwater corrective action;

608 (B) differential settlement failure; or

609 (C) major maintenance of a cell or cells.

610 (c) The Solid and Hazardous Waste Control Board shall evaluate in 2006 whether  
611 financial assurance or funds are necessary for perpetual care and maintenance following the  
612 closure and postclosure period of a commercial hazardous waste treatment, storage, or disposal  
613 facility to protect human health and the environment.

614 (2) (a) Beginning in 2006, the Radiation Control Board created in Section 19-1-106  
615 shall direct an evaluation every five years of:

616 (i) the adequacy of the Radioactive Waste Perpetual Care and Maintenance [Fund]

617 Account created by Section 19-3-106.2; and

618 (ii) the adequacy of the amount of financial assurance required for closure and  
619 postclosure care of commercial radioactive waste treatment or disposal facilities under  
620 Subsection 19-3-104(12).

621 (b) The evaluation shall determine:

622 (i) whether the [~~fund~~] restricted account is adequate to provide for perpetual care and  
623 maintenance of commercial radioactive waste treatment or disposal facilities;

624 (ii) whether the amount of financial assurance required is adequate to provide for  
625 closure and postclosure care of commercial radioactive waste treatment or disposal facilities;

626 (iii) the costs under Subsection 19-3-106.2(5)(b) of using the Radioactive Waste  
627 Perpetual Care and Maintenance [~~Fund~~] Account during the period before the end of 100 years  
628 following final closure of the facility for maintenance, monitoring, or corrective action in the  
629 event that the owner or operator is unwilling or unable to carry out the duties of postclosure  
630 maintenance, monitoring, or corrective action; and

631 (iv) the costs above the minimal maintenance and monitoring for reasonable risks that  
632 may occur during closure, postclosure, and perpetual care and maintenance of commercial  
633 radioactive waste treatment or disposal facilities including:

634 (A) groundwater corrective action;

635 (B) differential settlement failure; or

636 (C) major maintenance of a cell or cells.

637 (3) The boards under Subsections (1) and (2) shall submit a joint report on the  
638 evaluations to the Legislative Management Committee on or before October 1 of the year in  
639 which the report is due.

640 Section 18. Section **19-3-106.2** is amended to read:

641 **19-3-106.2. Fee for perpetual care and maintenance of commercial radioactive**  
642 **waste disposal facilities -- Radioactive Waste Perpetual Care and Maintenance Account**  
643 **created -- Contents -- Use of restricted account monies -- Evaluation.**

644 (1) As used in this section, "perpetual care and maintenance" means perpetual care and  
645 maintenance of a commercial radioactive waste treatment or disposal facility, excluding sites  
646 within the facility used for the disposal of byproduct material, as required by applicable laws,  
647 rules, and license requirements beginning 100 years after the date of final closure of the

648 facility.

649 (2) (a) On and after July 1, 2002, the owner or operator of an active commercial  
650 radioactive waste treatment or disposal facility shall pay an annual fee of \$400,000 to provide  
651 for the perpetual care and maintenance of the facility.

652 (b) The owner or operator shall remit the fee to the department on or before July 1 of  
653 each year.

654 (3) The department shall deposit fees received under Subsection (2) into the  
655 Radioactive Waste Perpetual Care and Maintenance [~~Fund~~] Account created in Subsection (4).

656 (4) (a) There is created a restricted account within the General Fund known as the  
657 "Radioactive Waste Perpetual Care and Maintenance [~~Fund~~] Account" to finance perpetual  
658 care and maintenance of commercial radioactive waste treatment or disposal facilities,  
659 excluding sites within those facilities used for the disposal of byproduct material.

660 (b) The sources of revenue for the [~~fund~~] restricted account are:

661 (i) the fee imposed under this section; and

662 (ii) investment income derived from money in the [~~fund~~] restricted account.

663 (c) (i) The revenues for the [~~fund~~] restricted account shall be segregated into  
664 subaccounts for each commercial radioactive waste treatment or disposal facility covered by  
665 the [~~fund~~] restricted account.

666 (ii) Each subaccount shall contain:

667 (A) the fees paid by each owner or operator of a commercial radioactive waste  
668 treatment or disposal facility; and

669 (B) the associated investment income.

670 (5) The Legislature may appropriate money from the Radioactive Waste Perpetual Care  
671 and Maintenance [~~Fund~~] Account for:

672 (a) perpetual care and maintenance of a commercial radioactive waste treatment or  
673 disposal facility, excluding sites within the facility used for the disposal of byproduct material,  
674 beginning 100 years after the date of final closure of the facility; or

675 (b) maintenance or monitoring of, or implementing corrective action at, a commercial  
676 radioactive waste treatment or disposal facility, excluding sites within the facility used for the  
677 disposal of byproduct material, before the end of 100 years after the date of final closure of the  
678 facility, if:

679 (i) the owner or operator is unwilling or unable to carry out postclosure maintenance,  
680 monitoring, or corrective action; and

681 (ii) the financial surety arrangements made by the owner or operator, including any  
682 required under applicable law, are insufficient to cover the costs of postclosure maintenance,  
683 monitoring, or corrective action.

684 (6) The money appropriated from the Radioactive Waste Perpetual Care and  
685 Maintenance ~~[Fund]~~ Account for the purposes specified in Subsection (5)(a) or ~~[(5)]~~(b) at a  
686 particular commercial radioactive waste treatment or disposal facility may be appropriated only  
687 from the subaccount established under Subsection (4)(c) for the facility.

688 (7) The attorney general shall bring legal action against the owner or operator or take  
689 other steps to secure the recovery or reimbursement of the costs of maintenance, monitoring, or  
690 corrective action, including legal costs, incurred pursuant to Subsection (5)(b).

691 (8) The board shall direct an evaluation of the adequacy of the ~~[fund]~~ restricted account  
692 as required under Section 19-1-307.

693 (9) This section does not apply to a uranium mill licensed under 10 C.F.R. Part 40,  
694 Domestic Licensing of Source Material.

695 Section 19. Section **23-14-13** is amended to read:

696 **23-14-13. Wildlife Resources Account.**

697 (1) ~~[The]~~ There is created a restricted account within the General Fund known as the  
698 "Wildlife Resources Account" ~~[is established within the General Fund].~~

699 (2) The following monies shall be deposited into the Wildlife Resources Account:

700 (a) revenue from the sale of licenses, permits, tags, and certificates of registration  
701 issued under this title or a rule or proclamation of the Wildlife Board, except as otherwise  
702 provided by this title;

703 (b) revenue from the sale, lease, rental, or other granting of rights of real or personal  
704 property acquired with revenue specified in Subsection (2)(a);

705 (c) revenue from fines and forfeitures for violations of this title or any rule,  
706 proclamation, or order of the Wildlife Board, minus court costs not to exceed the schedule  
707 adopted by the Judicial Council;

708 (d) funds appropriated from the General Fund by the Legislature pursuant to Section  
709 23-19-39;

710 (e) other monies received by the division under any provision of this title, except as  
711 otherwise provided by this title;

712 (f) contributions made in accordance with Section 59-10-1305; and

713 (g) interest, dividends, or other income earned on account monies.

714 (3) Monies in the Wildlife Resources Account shall be used for the administration of  
715 this title.

716 Section 20. Section **26-2-12.5** is amended to read:

717 **26-2-12.5. Certified copies of birth certificates -- Fees credited to Children's**  
718 **Account.**

719 (1) In addition to the fees provided for in Section 26-1-6, the department and local  
720 registrars authorized to issue certified copies shall charge an additional \$3 fee for each certified  
721 copy of a birth certificate, including certified copies of supplementary and amended birth  
722 certificates, under Sections 26-2-8 through 26-2-11. This additional fee may be charged only  
723 for the first copy requested at any one time.

724 (2) The fee shall be transmitted monthly to the state treasurer and credited to the  
725 Children's ~~[Trust]~~ Account established in Section 62A-4a-309.

726 Section 21. Section **26-9-4** is amended to read:

727 **26-9-4. Rural Health Care Facilities Account -- Source of revenues -- Interest --**  
728 **Distribution of revenues -- Expenditure of revenues -- Unexpended revenues lapse into**  
729 **the General Fund.**

730 (1) As used in this section:

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

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

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

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

735 ~~[(e) "Fund" means the Rural Health Care Facilities Fund created by this section.]~~

736 ~~[(f)]~~ (e) "Nursing care facility" is as defined in Section 26-21-2.

737 ~~[(g)]~~ (f) "Rural city hospital" is as defined in Section 59-12-801.

738 ~~[(h)]~~ (g) "Rural county health care facility" is as defined in Section 59-12-801.

739 ~~[(i)]~~ (h) "Rural county hospital" is as defined in Section 59-12-801.

740 ~~[(j)]~~ (i) "Rural county nursing care facility" is as defined in Section 59-12-801.

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

742 ~~(k)~~ (k) "Rural health clinic" is as defined in 42 U.S.C. Sec. 1395x.

743 (2) There is created a ~~general fund~~ restricted account within the General Fund known  
744 as the "Rural Health Care Facilities ~~Fund~~ Account."

745 (3) (a) The ~~fund~~ restricted account shall be funded by amounts appropriated by the  
746 Legislature.

747 (b) Any interest earned on the ~~fund~~ restricted account shall be deposited into the  
748 General Fund.

749 (4) Subject to ~~H~~ ~~→~~ ~~[Subsection]~~ ~~Subsections~~ ~~←H~~ (5) ~~H~~ ~~→~~ ~~and~~ (6) ~~←H~~ , the State Tax  
749a Commission shall for a fiscal year

750 distribute ~~monies~~ money deposited into the ~~fund~~ restricted account to each:

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

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

755 (5) (a) ~~H~~ ~~→~~ ~~[For]~~ ~~Subject to Subsection (6), for~~ ~~←H~~ purposes of the distribution required  
755a by Subsection (4), the State Tax

756 Commission shall:

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

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

762 (B) each county and city described in Subsection (4) imposed the tax under Sections  
763 59-12-802 and 59-12-804 for the entire fiscal year 2005-06;

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

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

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

770 (B) the amount appropriated by the Legislature to the ~~fund~~ restricted account for the  
771 fiscal year.

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

774a **H→ (6) If a county legislative body repeals a tax imposed under Section 59-12-802 or a city**  
774b **legislative body repeals a tax imposed under Section 59-12-804:**

774c **(a) the commission shall determine in accordance with Subsection (5) the distribution**  
774d **that, but for this Subsection (6), the county legislative body or city legislative body would**  
774e **receive; and**

774f **(b) after making the determination required by Subsection (6)(a), the commission shall:**

774g **(i) if the effective date of the repeal of a tax imposed under Section 59-12-802 or**  
774h **59-12-804 is October 1:**

774i **(A) (I) distribute to the county legislative body or city legislative body 25% of the**  
774j **distribution determined in accordance with Subsection (6)(a); and**

774k **(II) deposit 75% of the distribution determined in accordance with Subsection (6)(a)**  
774l **into the General Fund; and**

774m **(B) beginning with the first fiscal year after the effective date of the repeal and for each**  
774n **subsequent fiscal year, deposit the entire amount of the distribution determined in accordance**  
774o **with Subsection (6)(a) into the General Fund;**

774p **(ii) if the effective date of the repeal of a tax imposed under Section 59-12-802 or**  
774q **59-12-804 is January 1:**

774r **(A) (I) distribute to the county legislative body or city legislative body 50% of the**  
774s **distribution determined in accordance with Subsection (6)(a); and**

774t **(II) deposit 50% of the distribution determined in accordance with Subsection (6)(a)**  
774u **into the General Fund; and**

774v **(B) beginning with the first fiscal year after the effective date of the repeal and for each**  
774w **subsequent fiscal year, deposit the entire amount of the distribution determined in accordance**  
774x **with Subsection (6)(a) into the General Fund;**

774y **(iii) if the effective date of the repeal of a tax imposed under Section 59-12-802 or**  
774z **59-12-804 is April 1:**

774aa **(A) (I) distribute to the county legislative body or city legislative body 75% of the**  
774ab **distribution determined in accordance with Subsection (6)(a); and**

774ac **(II) deposit 25% of the distribution determined in accordance with Subsection (6)(a)**  
774ad **into the General Fund; and**

774ae **(B) beginning with the first fiscal year after the effective date of the repeal and for**

774af each subsequent fiscal year, deposit the entire amount of the distribution determined in  
 774ag accordance with Subsection (6)(a) into the General Fund; or  
 774ah (iv) if the effective date of the repeal of a tax imposed under Section 59-12-802 or  
 774ai 59-12-804 is July 1, beginning on that effective date and for each subsequent fiscal year,  
 774aj deposit the entire amount of the distribution determined in accordance with Subsection (6)(a)  
 774ak into the General Fund. ←H

775 H→ [~~6~~] (7) ←H (a) Subject to Subsection H→ [~~6~~] (7) ←H (b), a county legislative body  
 775a shall distribute the

776 H→ [monies] money ←H the county legislative body receives in accordance with Subsection (5)

776a H→ or (6) ←H :

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

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

780 (A) emergency medical services in that county;

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

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

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

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

785 (F) a combination of Subsections H→ [~~6~~] (7) ←H (a)(ii)(A) through (E).

786 (b) A county legislative body shall distribute a percentage of the [monies] money the  
 787 county legislative body receives in accordance with Subsection (5) H→ or (6) ←H to each center,  
 787a clinic,

788 facility, or service described in Subsection H→ [~~6~~] (7) ←H (a) equal to the same percentage that  
 788a the county

789 legislative body distributes to that center, clinic, facility, or service in accordance with Section

790 59-12-803 for the calendar year ending on the December 31 immediately preceding the first

791 day of the fiscal year for which the county legislative body receives the distribution in

792 accordance with Subsection (5) H→ or (6) ←H .

793 (c) A center, clinic, facility, or service that receives a distribution in accordance with  
 794 this Subsection H→ [~~6~~] (7) ←H shall expend that distribution for the same purposes for which  
 794a monies

795 generated by a tax under Section 59-12-802 may be expended.

796 H→ [~~7~~] (8) ←H (a) Subject to Subsection H→ [~~7~~] (8) ←H (b), a city legislative body  
 796a shall distribute the [monies]

797 money the city legislative body receives in accordance with Subsection (5) ~~H→~~ or (6) ~~←H~~ to fund  
797a rural city  
798 hospitals in that city.  
799 (b) A city legislative body shall distribute a percentage of the monies the city  
800 legislative body receives in accordance with Subsection (5) ~~H→~~ or (6) ~~←H~~ to each rural city  
800a hospital described  
801 in Subsection ~~H→~~ [(7)] (8) ~~←H~~ (a) equal to the same percentage that the city legislative body  
801a distributes to  
802 that rural city hospital in accordance with Section 59-12-805 for the calendar year ending on

803 the December 31 immediately preceding the first day of the fiscal year for which the city  
804 legislative body receives the distribution in accordance with Subsection (5) ~~H→~~ or (6) ~~←H~~ .

805 (c) A rural city hospital that receives a distribution in accordance with this Subsection  
806 ~~H→~~ [(7)] (8) ~~←H~~ shall expend that distribution for the same purposes for which  
806a [monies] money generated  
807 by a tax under Section 59-12-804 may be expended.

808 ~~H→~~ [(8)] (9) ~~←H~~ Any [monies] money remaining in the Rural Health Care Facilities [Fund]  
808a Account  
809 at the end of a fiscal year after the State Tax Commission makes the distributions required by  
810 this section shall lapse into the General Fund.

811 Section 22. Section **26-18a-1** is amended to read:

812 **26-18a-1. Definitions.**

813 As used in this chapter:

814 (1) "Children" or "child" means a person under the age of 18.

815 (2) "Committee" means the Kurt Oscarson Children's Organ Transplant Coordinating  
816 Committee.

817 (3) "[Trust] Restricted account" means the [~~restricted account within the General Fund~~]  
818 Kurt Oscarson Children's Organ Transplant Account created in Section 26-18a-4.

819 Section 23. Section **26-18a-3** is amended to read:

820 **26-18a-3. Purpose of committee.**

821 (1) The committee shall work to:

822 (a) provide financial assistance for initial medical expenses of children who need organ  
823 transplants;

824 (b) obtain the assistance of volunteer and public service organizations; and

825 (c) fund activities as the committee designates for the purpose of educating the public  
826 about the need for organ donors.

827 (2) (a) The committee is responsible for awarding financial assistance funded by the  
828 [~~trust~~] restricted account.

829 (b) The financial assistance awarded by the committee under Subsection (1)(a) shall be  
830 in the form of interest free loans. The committee may establish terms for repayment of the  
831 loans, including a waiver of the requirement to repay any awards if, in the committee's  
832 judgment, repayment of the loan would impose an undue financial burden on the recipient.

833 (c) In making financial awards under Subsection (1)(a), the committee shall consider:

- 834 (i) need;
- 835 (ii) coordination with or enhancement of existing services or financial assistance,
- 836 including availability of insurance or other state aid;
- 837 (iii) the success rate of the particular organ transplant procedure needed by the child;
- 838 and
- 839 (iv) the extent of the threat to the child's life without the organ transplant.

840 (3) The committee may only provide the assistance described in this section to children  
 841 who have resided in Utah, or whose legal guardians have resided in Utah for at least six months  
 842 prior to the date of assistance under this section.

843 (4) (a) The committee may expend up to 5% of its annual appropriation for  
 844 administrative costs associated with the allocation of funds from the ~~[trust]~~ restricted account.

845 (b) The administrative costs shall be used for the costs associated with staffing the  
 846 committee and for State Tax Commission costs in implementing Section 59-10-1308.

847 (5) The committee shall make an annual report to the Health and Human Services  
 848 Appropriations Subcommittee regarding the programs and services funded by contributions to  
 849 the ~~[trust]~~ restricted account.

850 Section 24. Section **26-18a-4** is amended to read:

851 **26-18a-4. Creation of Kurt Oscarson Children's Organ Transplant Account.**

852 (1) There is created a restricted account within the General Fund ~~[pursuant to Section~~  
 853 ~~51-5-4]~~ known as the "Kurt Oscarson Children's Organ Transplant ~~[Trust]~~ Account." Private  
 854 contributions received under this section and Section 59-10-1308 shall be deposited into the  
 855 ~~[trust]~~ restricted account to be used only for the programs and purposes described in Section  
 856 26-18a-3.

857 (2) Money shall be appropriated from the ~~[trust]~~ restricted account to the committee in  
 858 accordance with Title 63J, Chapter 1, Budgetary Procedures Act.

859 (3) In addition to funds received under Section 59-10-1308, the committee may accept  
 860 transfers, grants, gifts, bequests, or any money made available from any source to implement  
 861 this chapter.

862 Section 25. Section **35A-3-115** is amended to read:

863 **35A-3-115. Public Employment Offices -- Agreements with other authorities --**  
 864 **Federal system accepted -- Appropriation.**

865 (1) (a) The division shall establish and maintain free public employment offices in such  
866 manner and in such places as may be necessary for the proper administration of this chapter  
867 and for the purposes of performing the functions as are within the purview of the Act of  
868 Congress entitled "An act to provide for the establishment of a national employment system  
869 and for co-operation with the states in the promotion of such system, and for other purposes,"  
870 approved June 6, 1933, 48 Stat. 113; U. S. Code, Title 29, Section 49 (c) as amended,  
871 hereinafter referred to as the "Wagner-Peyser Act."

872 (b) The division shall consult with regional councils on workforce services when  
873 determining the location of public employment offices.

874 (c) A public employment office may be located in connection with or as an integrated  
875 part of an employment center established under Section 35A-2-203.

876 (2) The provisions of the Wagner-Peyser Act, 29 U.S.C. 49-49c, 49g, 49h, 49k, and  
877 557, are accepted by this state, and the department is designated and constitutes the agency of  
878 this state for the purposes of the act.

879 (3) All moneys received by [~~this~~] the state under the Wagner-Peyser Act shall be paid  
880 into the Employment Security Administration [~~Fund~~] Account created by Section 35A-4-505  
881 and shall be expended solely for the maintenance of the state system of public employment  
882 offices.

883 (4) (a) For the purpose of establishing and maintaining free public employment offices,  
884 and promoting the use of their facilities, the division is authorized to enter into agreements  
885 with the railroad retirement board, or any other agency of the United States, or of this or any  
886 other state, charged with the administration of any law whose purposes are reasonably related  
887 to the purposes of this chapter, and as a part of such agreements may accept moneys, services  
888 or quarters as a contribution to the maintenance of the state system of public employment  
889 offices or as reimbursement for services performed.

890 (b) All moneys received or appropriated for such purposes shall be paid into the  
891 Employment Security Administration [~~Fund~~] Account.

892 Section 26. Section **35A-4-201** is amended to read:

893 **35A-4-201. General definitions.**

894 As used in this chapter:

895 (1) "Base-period" means the first four of the last five completed calendar quarters next

896 preceding the first day of the individual's benefit year with respect to any individual whose  
897 benefit year commences on or after January 5, 1986.

898 (2) "Benefit year" means the 52 consecutive week period beginning with the first week  
899 with respect to which an individual files for benefits and is found to have an insured status.

900 (3) "Benefits" means the money payments payable to an individual as provided in this  
901 chapter with respect to the individual's unemployment.

902 (4) "Calendar quarter" means the period of three consecutive months ending on March  
903 31, June 30, September 30, or December 31, or the equivalent, as the department may by rule  
904 prescribe.

905 (5) "Contribution" means the money payments required by this chapter to be made into  
906 the Unemployment Compensation Fund by any employing unit on account of having  
907 individuals in its employ.

908 (6) "Division" means the Unemployment Insurance Division.

909 (7) "Employment office" means a free public employment office or branch operated by  
910 this or any other state as a part of a state-controlled system of public employment offices or by  
911 a federal agency charged with the administration of an unemployment compensation program  
912 or free public employment offices.

913 (8) "Employment Security Administration [~~Fund~~] Account" means the [~~fund~~] restricted  
914 account established by Section 35A-4-505, and from which administrative expenses under this  
915 chapter shall be paid.

916 (9) "Extended benefits" has the meaning specified in Subsection 35A-4-402(7)(f).

917 (10) "Fund" means the Unemployment Compensation Fund established by this chapter.

918 (11) "Insured average annual wage" means on or before the 15th day of May of each  
919 year, the total wages of insured workers for the preceding calendar year, divided by the average  
920 monthly number of insured workers, determined by dividing by 12 the total insured workers for  
921 the preceding calendar year as determined under the rules of the department calculated to two  
922 decimal places, disregarding any fraction of one cent.

923 (12) "Insured average fiscal year wage" means on or before the 15th day of November  
924 of each year, the total wages of insured workers for the preceding fiscal year, divided by the  
925 average monthly number of insured workers, determined by dividing by 12 the total insured  
926 workers for the preceding fiscal year as determined under the rules of the department calculated

927 to two decimal places, disregarding any fraction of one cent.

928 (13) "Insured average fiscal year weekly wage" means the insured average fiscal year  
929 wage determined in Subsection (12), divided by 52, calculated to two decimal places,  
930 disregarding any fraction of one cent.

931 (14) "Insured average weekly wage" means the insured average annual wage  
932 determined in Subsection (11), divided by 52, calculated to two decimal places, disregarding  
933 any fraction of one cent.

934 (15) "Insured status" means that an individual has, during the individual's base-period,  
935 performed services and earned wages in employment sufficient to qualify for benefits under  
936 Section 35A-4-403.

937 (16) "Insured work" means employment for an employer, as defined in Section  
938 35A-4-203.

939 (17) "Monetary base period wage requirement" means 8% of the insured average fiscal  
940 year wage for the preceding fiscal year, for example, fiscal year 1990 for individuals  
941 establishing benefit years in 1991, rounded up to the next higher multiple of \$100.

942 (18) "State" includes the Commonwealth of Puerto Rico, the Virgin Islands, and the  
943 District of Columbia.

944 (19) "Tribal unit" means a subdivision, subsidiary, or business enterprise wholly owned  
945 by an American Indian tribe.

946 (20) "Week" means the period or periods of seven consecutive calendar days as the  
947 department may prescribe by rule.

948 Section 27. Section **35A-4-305** is amended to read:

949 **35A-4-305. Collection of contributions -- Unpaid contributions to bear interest.**

950 (1) (a) Contributions unpaid on the date on which they are due and payable, as  
951 prescribed by the division, shall bear interest at the rate of 1% per month from and after that  
952 date until payment plus accrued interest is received by the division.

953 (b) (i) Contribution reports not made and filed by the date on which they are due as  
954 prescribed by the division are subject to a penalty to be assessed and collected in the same  
955 manner as contributions due under this section equal to 5% of the contribution due if the failure  
956 to file on time was not more than 15 days, with an additional 5% for each additional 15 days or  
957 fraction thereof during which the failure continued, but not to exceed 25% in the aggregate and

958 not less than \$25 with respect to each reporting period.

959 (ii) If a report is filed after the required time and it is shown to the satisfaction of the  
960 division or its authorized representative that the failure to file was due to a reasonable cause  
961 and not to willful neglect, no addition shall be made to the contribution.

962 (c) (i) If contributions are unpaid after 10 days from the date of the mailing or personal  
963 delivery by the division or its authorized representative, of a written demand for payment, there  
964 shall attach to the contribution, to be assessed and collected in the same manner as  
965 contributions due under this section, a penalty equal to 5% of the contribution due.

966 (ii) A penalty may not attach if within 10 days after the mailing or personal delivery,  
967 arrangements for payment have been made with the division, or its authorized representative,  
968 and payment is made in accordance with those arrangements.

969 (d) The division shall assess as a penalty a service charge, in addition to any other  
970 penalties that may apply, in an amount not to exceed the service charge imposed by Section  
971 7-15-1 for dishonored instruments if:

972 (i) any amount due the division for contributions, interest, other penalties or benefit  
973 overpayments is paid by check, draft, order, or other instrument; and

974 (ii) the instrument is dishonored or not paid by the institution against which it is drawn.

975 (e) Except for benefit overpayments under Subsection 35A-4-405(5), benefit  
976 overpayments, contributions, interest, penalties, and assessed costs, uncollected three years  
977 after they become due, may be charged as uncollectible and removed from the records of the  
978 division if:

979 (i) no assets belonging to the liable person and subject to attachment can be found; and

980 (ii) in the opinion of the division there is no likelihood of collection at a future date.

981 (f) Interest and penalties collected in accordance with this section shall be paid into the  
982 Special Administrative Expense ~~[Fund]~~ Account created by Section 35A-4-506.

983 (g) Action required for the collection of sums due under this chapter is subject to the  
984 applicable limitations of actions under Title 78B, Chapter 2, Statutes of Limitations.

985 (2) (a) If an employer fails to file a report when prescribed by the division for the  
986 purpose of determining the amount of the employer's contribution due under this chapter, or if  
987 the report when filed is incorrect or insufficient or is not satisfactory to the division, the  
988 division may determine the amount of wages paid for employment during the period or periods

989 with respect to which the reports were or should have been made and the amount of  
990 contribution due from the employer on the basis of any information it may be able to obtain.

991 (b) The division shall give written notice of the determination to the employer.

992 (c) The determination is considered correct unless:

993 (i) the employer, within 10 days after mailing or personal delivery of notice of the  
994 determination, applies to the division for a review of the determination as provided in Section  
995 35A-4-508; or

996 (ii) unless the division or its authorized representative of its own motion reviews the  
997 determination.

998 (d) The amount of contribution determined under Subsection (2)(a) is subject to  
999 penalties and interest as provided in Subsection (1).

1000 (3) (a) If, after due notice, an employer defaults in the payment of contributions,  
1001 interest, or penalties on the contributions, or a claimant defaults in a repayment of benefit  
1002 overpayments and penalties on the overpayments, the amount due shall be collectible by civil  
1003 action in the name of the division, and the employer adjudged in default shall pay the costs of  
1004 the action.

1005 (b) Civil actions brought under this section to collect contributions, interest, or  
1006 penalties from an employer, or benefit overpayments and penalties from a claimant shall be:

1007 (i) heard by the court at the earliest possible date; and

1008 (ii) entitled to preference upon the calendar of the court over all other civil actions

1009 except:

1010 (A) petitions for judicial review under this chapter; and

1011 (B) cases arising under the workers' compensation law of this state.

1012 (c) (i) (A) To collect contributions, interest, or penalties, or benefit overpayments and  
1013 penalties due from employers or claimants located outside Utah, the division may employ  
1014 private collectors providing debt collection services outside Utah.

1015 (B) Accounts may be placed with private collectors only after the employer or claimant  
1016 has been given a final notice that the division intends to place the account with a private  
1017 collector for further collection action.

1018 (C) The notice shall advise the employer or claimant of the employer's or claimant's  
1019 rights under this chapter and the applicable rules of the department.

1020           (ii) (A) A private collector may receive as compensation up to 25% of the lesser of the  
1021 amount collected or the amount due, plus the costs and fees of any civil action or postjudgment  
1022 remedy instituted by the private collector with the approval of the division.

1023           (B) The employer or claimant shall be liable to pay the compensation of the collector,  
1024 costs, and fees in addition to the original amount due.

1025           (iii) A private collector is subject to the federal Fair Debt Collection Practices Act, 15  
1026 U.S.C. Sec. 1692 et seq.

1027           (iv) (A) A civil action may not be maintained by a private collector without specific  
1028 prior written approval of the division.

1029           (B) When division approval is given for civil action against an employer or claimant,  
1030 the division may cooperate with the private collector to the extent necessary to effect the civil  
1031 action.

1032           (d) (i) Notwithstanding Section 35A-4-312, the division may disclose the contribution,  
1033 interest, penalties or benefit overpayments and penalties, costs due, the name of the employer  
1034 or claimant, and the employer's or claimant's address and telephone number when any  
1035 collection matter is referred to a private collector under Subsection (3)(c).

1036           (ii) A private collector is subject to the confidentiality requirements and penalty  
1037 provisions provided in Section 35A-4-312 and Subsection 76-8-1301(4), except to the extent  
1038 disclosure is necessary in a civil action to enforce collection of the amounts due.

1039           (e) An action taken by the division under this section may not be construed to be an  
1040 election to forego other collection procedures by the division.

1041           (4) (a) In the event of a distribution of an employer's assets under an order of a court  
1042 under the laws of Utah, including a receivership, assignment for benefits of creditors,  
1043 adjudicated insolvency, composition, or similar proceedings, contributions then or thereafter  
1044 due shall be paid in full prior to all other claims except taxes and claims for wages of not more  
1045 than \$400 to each claimant, earned within five months of the commencement of the  
1046 proceeding.

1047           (b) If an employer commences a proceeding in the Federal Bankruptcy Court under a  
1048 chapter of 11 U.S.C. 101 et seq., as amended by the Bankruptcy Abuse Prevention and  
1049 Consumer Protection Act of 2005, contributions, interest, and penalties then or thereafter due  
1050 shall be entitled to the priority provided for taxes, interest, and penalties in the Bankruptcy

1051 Abuse Prevention and Consumer Protection Act of 2005.

1052 (5) (a) In addition and as an alternative to any other remedy provided by this chapter  
1053 and provided that no appeal or other proceeding for review provided by this chapter is then  
1054 pending and the time for taking it has expired, the division may issue a warrant in duplicate,  
1055 under its official seal, directed to the sheriff of any county of the state, commanding the sheriff  
1056 to levy upon and sell the real and personal property of a delinquent employer or claimant found  
1057 within the sheriff's county for the payment of the contributions due, with the added penalties,  
1058 interest, or benefit overpayment and penalties, and costs, and to return the warrant to the  
1059 division and pay into the fund the money collected by virtue of the warrant by a time to be  
1060 specified in the warrant, not more than 60 days from the date of the warrant.

1061 (b) (i) Immediately upon receipt of the warrant in duplicate, the sheriff shall file the  
1062 duplicate with the clerk of the district court in the sheriff's county.

1063 (ii) The clerk shall enter in the judgment docket, in the column for judgment debtors,  
1064 the name of the delinquent employer or claimant mentioned in the warrant, and in appropriate  
1065 columns the amount of the contribution, penalties, interest, or benefit overpayment and  
1066 penalties, and costs, for which the warrant is issued and the date when the duplicate is filed.

1067 (c) The amount of the docketed warrant shall:

1068 (i) have the force and effect of an execution against all personal property of the  
1069 delinquent employer; and

1070 (ii) become a lien upon the real property of the delinquent employer or claimant in the  
1071 same manner and to the same extent as a judgment duly rendered by a district court and  
1072 docketed in the office of the clerk.

1073 (d) After docketing, the sheriff shall:

1074 (i) proceed in the same manner as is prescribed by law with respect to execution issued  
1075 against property upon judgments of a court of record; and

1076 (ii) be entitled to the same fees for the sheriff's services in executing the warrant, to be  
1077 collected in the same manner.

1078 (6) (a) Contributions imposed by this chapter are a lien upon the property of an  
1079 employer liable for the contribution required to be collected under this section who shall sell  
1080 out the employer's business or stock of goods or shall quit business, if the employer fails to  
1081 make a final report and payment on the date subsequent to the date of selling or quitting

1082 business on which they are due and payable as prescribed by rule.

1083 (b) (i) An employer's successor, successors, or assigns, if any, are required to withhold  
1084 sufficient of the purchase money to cover the amount of the contributions and interest or  
1085 penalties due and payable until the former owner produces a receipt from the division showing  
1086 that they have been paid or a certificate stating that no amount is due.

1087 (ii) If the purchaser of a business or stock of goods fails to withhold sufficient purchase  
1088 money, the purchaser is personally liable for the payment of the amount of the contributions  
1089 required to be paid by the former owner, interest and penalties accrued and unpaid by the  
1090 former owner, owners, or assignors.

1091 (7) (a) If an employer is delinquent in the payment of a contribution, the division may  
1092 give notice of the amount of the delinquency by registered mail to all persons having in their  
1093 possession or under their control, any credits or other personal property belonging to the  
1094 employer, or owing any debts to the employer at the time of the receipt by them of the notice.

1095 (b) A person notified under Subsection (7)(a) shall neither transfer nor make any other  
1096 disposition of the credits, other personal property, or debts until:

1097 (i) the division has consented to a transfer or disposition; or

1098 (ii) 20 days after the receipt of the notice.

1099 (c) All persons notified under Subsection (7)(a) shall, within five days after receipt of  
1100 the notice, advise the division of credits, other personal property, or other debts in their  
1101 possession, under their control or owing by them, as the case may be.

1102 (8) (a) (i) Each employer shall furnish the division necessary information for the proper  
1103 administration of this chapter and shall include wage information for each employee, for each  
1104 calendar quarter.

1105 (ii) The information shall be furnished at a time, in the form, and to those individuals  
1106 as the department may by rule require.

1107 (b) (i) Each employer shall furnish each individual worker who is separated that  
1108 information as the department may by rule require, and shall furnish within 48 hours of the  
1109 receipt of a request from the division a report of the earnings of any individual during the  
1110 individual's base-period.

1111 (ii) The report shall be on a form prescribed by the division and contain all information  
1112 prescribed by the division.

1113 (c) (i) For each failure by an employer to conform to this Subsection (8) the division  
1114 shall, unless good cause is shown, assess a \$50 penalty if the filing was not more than 15 days  
1115 late.

1116 (ii) If the filing is more than 15 days late, the division shall assess an additional penalty  
1117 of \$50 for each 15 days, or a fraction of the 15 days that the filing is late, not to exceed \$250  
1118 per filing.

1119 (iii) The penalty is to be collected in the same manner as contributions due under this  
1120 chapter.

1121 (d) (i) The division shall prescribe rules providing standards for determining which  
1122 contribution reports must be filed on magnetic or electronic media or in other machine-readable  
1123 form.

1124 (ii) In prescribing these rules, the division:

1125 (A) may not require an employer to file contribution reports on magnetic or electronic  
1126 media unless the employer is required to file wage data on at least 250 employees during any  
1127 calendar quarter or is an authorized employer representative who files quarterly tax reports on  
1128 behalf of 100 or more employers during any calendar quarter;

1129 (B) shall take into account, among other relevant factors, the ability of the employer to  
1130 comply at reasonable cost with the requirements of the rules; and

1131 (C) may require an employer to post a bond for failure to comply with the rules  
1132 required by this Subsection (8)(d).

1133 (9) (a) (i) An employer liable for payments in lieu of contributions shall file  
1134 Reimbursable Employment and Wage Reports.

1135 (ii) The reports are due on the last day of the month that follows the end of each  
1136 calendar quarter unless the division, after giving notice, changes the due date.

1137 (iii) A report postmarked on or before the due date is considered timely.

1138 (b) (i) Unless the employer can show good cause, the division shall assess a \$50  
1139 penalty against an employer who does not file Reimbursable Employment and Wage Reports  
1140 within the time limits set out in Subsection (9)(a) if the filing was not more than 15 days late.

1141 (ii) If the filing is more than 15 days late, the division shall assess an additional penalty  
1142 of \$50 for each 15 days, or a fraction of the 15 days that the filing is late, not to exceed \$250  
1143 per filing.

1144 (iii) The division shall assess and collect the penalties referred to in this Subsection  
1145 (9)(b) in the same manner as prescribed in Sections 35A-4-309 and 35A-4-311.

1146 (10) If a person liable to pay a contribution or benefit overpayment imposed by this  
1147 chapter neglects or refuses to pay it after demand, the amount, including any interest, additional  
1148 amount, addition to contributions, or assessable penalty, together with any additional accruable  
1149 costs, shall be a lien in favor of the division upon all property and rights to property, whether  
1150 real or personal belonging to the person.

1151 (11) (a) The lien imposed by Subsection (10) arises at the time the assessment, as  
1152 defined in the department rules, is made and continues until the liability for the amount  
1153 assessed, or a judgment against the taxpayer arising out of the liability, is satisfied.

1154 (b) (i) The lien imposed by Subsection (10) is not valid as against a purchaser, holder  
1155 of a security interest, mechanics' lien holder, or judgment lien creditor until the division files a  
1156 warrant with the clerk of the district court.

1157 (ii) For the purposes of this Subsection (11)(b):

1158 (A) "Judgment lien creditor" means a person who obtains a valid judgment of a court  
1159 of record for recovery of specific property or a sum certain of money, and who in the case of a  
1160 recovery of money, has a perfected lien under the judgment on the property involved. A  
1161 judgment lien does not include inchoate liens such as attachment or garnishment liens until  
1162 they ripen into a judgment. A judgment lien does not include the determination or assessment  
1163 of a quasi-judicial authority, such as a state or federal taxing authority.

1164 (B) "Mechanics' lien holder" means any person who has a lien on real property, or on  
1165 the proceeds of a contract relating to real property, for services, labor, or materials furnished in  
1166 connection with the construction or improvement of the property. A person has a lien on the  
1167 earliest date the lien becomes valid against subsequent purchasers without actual notice, but not  
1168 before the person begins to furnish the services, labor, or materials.

1169 (C) "Person" means:

1170 (I) an individual;

1171 (II) a trust;

1172 (III) an estate;

1173 (IV) a partnership;

1174 (V) an association;

- 1175 (VI) a company;
- 1176 (VII) a limited liability company;
- 1177 (VIII) a limited liability partnership; or
- 1178 (IX) a corporation.
- 1179 (D) "Purchaser" means a person who, for adequate and full consideration in money or  
1180 money's worth, acquires an interest, other than a lien or security interest, in property which is  
1181 valid under state law against subsequent purchasers without actual notice.
- 1182 (E) "Security interest" means any interest in property acquired by contract for the  
1183 purpose of securing payment or performance of an obligation or indemnifying against loss or  
1184 liability. A security interest exists at any time:
- 1185 (I) the property is in existence and the interest has become protected under the law  
1186 against a subsequent judgment lien arising out of an unsecured obligation; and
- 1187 (II) to the extent that, at that time, the holder has parted with money or money's worth.
- 1188 Section 28. Section **35A-4-306** is amended to read:
- 1189 **35A-4-306. Charging benefit costs to employer.**
- 1190 (1) Benefit costs of former workers of an employer will be charged to the employer in  
1191 the same proportion as the wages paid by that employer in the base period bear to the total  
1192 wages of all employers of that worker in the base period, calculated to the nearest five decimal  
1193 places.
- 1194 (2) Notification by the division that a worker has filed an initial claim for  
1195 unemployment insurance benefits will be sent to all base-period employers and all subsequent  
1196 employers prior to the payment of benefits. Any employing unit that receives a notice of the  
1197 filing of a claim may protest payment of benefits to former employees or charges to the  
1198 employer if the protest is filed within 10 days after the date the notice is issued.
- 1199 (3) On or before November 1 of each year beginning November 1, 1984, each  
1200 employer shall receive notification of all benefit costs of former workers that have been  
1201 charged to that employer in the immediately preceding fiscal year. Any employing unit that  
1202 receives a notice of benefit charges may protest the correctness of the charges if the protest is  
1203 filed within 30 days after the date the notice is issued.
- 1204 (4) On written request made by an employer, corrections or modifications of the  
1205 employer's wages shall be taken into account for the purpose of redetermining the employer's

1206 contribution rate. The request shall be made to the division no later than the end of the  
1207 calendar year following the year for which the contribution rate is assigned. The division may,  
1208 within a like period upon its own initiative, redetermine an employer's contribution rate.

1209 (5) (a) If no later than three years after the date on which any contributions or interest  
1210 or penalty for contributions were due, an employer who has paid the contributions, interest, or  
1211 penalty may make application for an adjustment in connection with subsequent contribution  
1212 payments, or for a refund because the adjustment cannot be made, and the division shall  
1213 determine that the contributions or interest or penalty or any portion thereof was erroneously  
1214 collected, the division shall allow the employer to make an adjustment, without interest, in  
1215 connection with subsequent contribution payments by the employer, or if the adjustment cannot  
1216 be made, the division shall refund that amount, without interest.

1217 (b) Refunds of contributions shall be made from the clearing account or the benefit  
1218 account in the fund, and refunds of interest and penalty shall be made from the Special  
1219 Administrative Expense [~~fund~~] Account or from the interest and penalty moneys in the clearing  
1220 account of the fund.

1221 (c) For like cause and within the same period, an adjustment or refund may be made on  
1222 the division's own initiative.

1223 (d) Decisions with respect to applications for refund are final unless the employing  
1224 unit, within 10 days after the mailing or personal delivery of notice of the decision, applies to  
1225 the division for a review of the decision as provided in Section 35A-4-508.

1226 Section 29. Section **35A-4-501** is amended to read:

1227 **35A-4-501. Unemployment Compensation Fund -- Administration -- Contents --**  
1228 **Treasurer and custodian -- Separate accounts -- Use of money requisitioned -- Advances**  
1229 **under Social Security Act.**

1230 (1) There is established the Unemployment Compensation Fund, separate and apart  
1231 from all public moneys or funds of this state, that shall be administered by the department  
1232 exclusively for the purposes of this chapter. This fund shall consist of the following moneys,  
1233 all of which shall be mingled and undivided:

1234 (a) all contributions collected under this chapter, less refunds of contributions made  
1235 from the clearing account under Subsection 35A-4-306(5);

1236 (b) interest earned upon any moneys in the fund;

- 1237 (c) any property or securities acquired through the use of moneys belonging to the  
1238 fund;
- 1239 (d) all earnings of the property or securities;
- 1240 (e) all money credited to this state's account in the unemployment trust fund under  
1241 Section 903 of the Social Security Act, 42 U.S.C. 1101 et seq., as amended; and
- 1242 (f) all other moneys received for the fund from any other source.
- 1243 (2) (a) The state treasurer shall be the treasurer and custodian of the fund, and shall  
1244 administer the fund in accordance with the directions of the division and shall pay all warrants  
1245 drawn upon it by the division or its duly authorized agent in accordance with rules made by the  
1246 department. The division shall maintain within the fund three separate accounts:
- 1247 (i) a clearing account;
- 1248 (ii) an unemployment trust fund account; and
- 1249 (iii) a benefit account.
- 1250 (b) All moneys payable to the fund, upon receipt by the division, shall be immediately  
1251 deposited in the clearing account.
- 1252 (c) (i) All moneys in the clearing account after clearance shall, except as otherwise  
1253 provided in this section, be deposited immediately with the secretary of the treasury of the  
1254 United States of America to the credit of the account of this state in the unemployment trust  
1255 fund, established and maintained under Section 904 of the Social Security Act, 42 U.S.C. 1104,  
1256 as amended, any provisions of law in this state relating to the deposit, administration, release,  
1257 or disbursement of moneys in the possession or custody of this state to the contrary  
1258 notwithstanding.
- 1259 (ii) Refunds of contributions payable under Subsections 35A-4-205(1)(a) and  
1260 35A-4-306(5) may be paid from the clearing account or the benefit account.
- 1261 (d) The benefit account shall consist of all moneys requisitioned from this state's  
1262 account in the unemployment trust fund in the United States treasury.
- 1263 (e) Moneys in the clearing and benefit accounts may be deposited in any depository  
1264 bank in which general funds of this state may be deposited, but no public deposit insurance  
1265 charge or premium may be paid out of the fund.
- 1266 (f) (i) Moneys in the clearing and benefit accounts may not be commingled with other  
1267 state funds, but shall be maintained in separate accounts on the books of the depository bank.

1268 (ii) The money shall be secured by the depository bank to the same extent and in the  
1269 same manner as required by the general depository law of this state.

1270 (iii) Collateral pledged for this purpose shall be kept separate and distinct from any  
1271 collateral pledged to secure other funds of the state.

1272 (g) (i) The state treasurer is liable on the state treasurer's official bond for the faithful  
1273 performance of the state treasurer's duties in connection with the unemployment compensation  
1274 fund provided for under this chapter.

1275 (ii) The liability on the official bond shall be effective immediately upon the enactment  
1276 of this provision, and that liability shall exist in addition to the liability upon any separate bond  
1277 existent on the effective date of this provision, or which may be given in the future.

1278 (iii) All sums recovered for losses sustained by the fund shall be deposited in the fund.

1279 (3) (a) (i) Moneys requisitioned from the state's account in the unemployment trust  
1280 fund shall, except as set forth in this section, be used exclusively for the payment of benefits  
1281 and for refunds of contributions under Subsections 35A-4-205(1)(a) and 35A-4-306(5).

1282 (ii) The department shall from time to time requisition from the unemployment trust  
1283 fund amounts, not exceeding the amounts standing to this state's account in the fund, as it  
1284 considers necessary for the payment of those benefits and refunds for a reasonable future  
1285 period.

1286 (iii) (A) Upon receipt the treasurer shall deposit the moneys in the benefit account and  
1287 shall pay benefits and refunds from the account by means of warrants issued by the division in  
1288 accordance with rules prescribed by the department.

1289 (B) Expenditures of these moneys in the benefit account and refunds from the clearing  
1290 account are not subject to any provisions of law requiring specific appropriations or other  
1291 formal release by state officers of money in their custody.

1292 (b) Moneys in the state's account in the unemployment trust fund that were collected  
1293 under the Federal Unemployment Tax Act, 26 U.S.C. 3301 et seq., and credited to the state  
1294 under Section 903 of the Social Security Act, 42 U.S.C. 1101 et seq., as amended may be  
1295 requisitioned from the state's account and used in the payment of expenses incurred by the  
1296 department for the administration of the state's unemployment law and public employment  
1297 offices, if the expenses are incurred and the withdrawals are made only after and under a  
1298 specific appropriation of the Legislature that specifies:

- 1299 (i) the purposes and amounts;
- 1300 (ii) that the moneys may not be obligated after the two-year period that began on the  
1301 date of the enactment of the appropriation law; and
- 1302 (iii) that the total amount which may be used during a fiscal year shall not exceed the  
1303 amount by which the aggregate of the amounts credited to this state's account under Section  
1304 903 of the Social Security Act, 42 U.S.C. 1101 et seq., as amended, during the fiscal year and  
1305 the 34 preceding fiscal years, exceeds the aggregate of the amounts used by this state for  
1306 administration during the same 35 fiscal years.
- 1307 (A) For the purpose of Subsection (3)(b)(iii), amounts used during any fiscal year shall  
1308 be charged against equivalent amounts that were first credited and that have not previously  
1309 been so charged. An amount used during any fiscal year may not be charged against any  
1310 amount credited during a fiscal year earlier than the 34th preceding fiscal year.
- 1311 (B) Except as appropriated and used for administrative expenses, as provided in this  
1312 section, moneys transferred to this state under Section 903 of the Social Security Act as  
1313 amended, may be used only for the payment of benefits.
- 1314 (C) Any moneys used for the payment of benefits may be restored for appropriation  
1315 and use for administrative expenses, upon request of the governor, under Section 903(c) of the  
1316 Social Security Act.
- 1317 (D) Money appropriated as provided in this section for the payment of expenses of  
1318 administration shall be requisitioned as needed for the payment of obligations incurred under  
1319 the appropriation and, upon requisition, shall be deposited in the Employment Security  
1320 Administration ~~[Fund]~~ Account created by Section 35A-4-505 from which the payments shall  
1321 be made.
- 1322 (E) The division shall maintain a separate record of the deposit, obligation,  
1323 expenditure, and return of funds deposited.
- 1324 (F) Money deposited shall, until expended, remain a part of the unemployment fund  
1325 and, if not expended, shall be returned promptly to the account of this state in the  
1326 unemployment trust fund.
- 1327 (G) The moneys available by reason of this legislative appropriation shall not be  
1328 expended or available for expenditure in any manner that would permit their substitution for,  
1329 or a corresponding reduction in, federal funds that would in the absence of the moneys be

1330 available to finance expenditures for the administration of this chapter.

1331 (c) Any balance of moneys requisitioned from the unemployment trust fund that  
1332 remains unclaimed or unpaid in the benefit account after the expiration of the period for which  
1333 the sums were requisitioned shall either be deducted from estimates for, and may be utilized for  
1334 the payment of, benefits and refunds during succeeding periods, or in the discretion of the  
1335 division, shall be redeposited with the secretary of the treasury of the United States of America  
1336 to the credit of the state's account in the unemployment trust fund, as provided in Subsection  
1337 (2).

1338 (4) (a) The provisions of Subsections (1), (2), and (3), to the extent that they relate to  
1339 the unemployment trust fund, shall be operative only so long as the unemployment trust fund  
1340 continues to exist and so long as the secretary of the treasury of the United States of America  
1341 continues to maintain for the state a separate book account of all moneys deposited in the fund  
1342 by the state for benefit purposes, together with the state's proportionate share of the earnings of  
1343 the unemployment trust fund, from which no other state is permitted to make withdrawals.

1344 (b) (i) When the unemployment trust fund ceases to exist, or the separate book account  
1345 is no longer maintained, all moneys belonging to the unemployment compensation fund of the  
1346 state shall be administered by the division as a trust fund for the purpose of paying benefits  
1347 under this chapter, and the division shall have authority to hold, invest, transfer, sell, deposit,  
1348 and release the moneys, and any properties, securities, or earnings acquired as an incident to  
1349 the administration.

1350 (ii) The moneys shall be invested in readily marketable bonds or other interest-bearing  
1351 obligations of the United States of America, of the state, or of any county, city, town, or school  
1352 district of the state, at current market prices for the bonds.

1353 (iii) The investment shall be made so that all the assets of the fund shall always be  
1354 readily convertible into cash when needed for the payment of benefits.

1355 Section 30. Section **35A-4-505** is amended to read:

1356 **35A-4-505. Employment Security Administration Account.**

1357 (1) (a) There is created [~~in the General Fund~~] a restricted account within the General  
1358 Fund known as the "Employment Security Administration [~~Fund~~] Account."

1359 (b) [~~All moneys which are~~] Money deposited or paid into [~~this fund~~] the account shall  
1360 be continuously available to the department for expenditure in accordance with the provisions

1361 of this chapter and Chapter 3, Employment Support Act, and shall not lapse at any time or be  
1362 transferred to any other fund.

1363 (c) ~~[All moneys in this fund which are]~~ Money in the restricted account which is  
1364 received from the Secretary of Labor under Title III of the Social Security Act, 42 U.S.C. 501  
1365 et seq. shall be expended solely for the ~~[purposes]~~ purpose and in the ~~[amounts]~~ amount found  
1366 necessary, after reasonable notice and opportunity for hearing to the division, by the Secretary  
1367 of Labor for the proper and efficient administration of this chapter.

1368 (2) The ~~[fund]~~ restricted account shall consist of ~~[all moneys]~~ money:

1369 (a) appropriated by this state~~[, all moneys]~~;

1370 (b) received from the United States of America, or any agency thereof, including the  
1371 Secretary of Labor~~[-]~~; and ~~[all moneys received from any other source for such purpose, and~~  
1372 ~~shall also include any moneys]~~

1373 (c) received from any agency of the United States or any other state as compensation  
1374 for services or facilities supplied to such agency, any amounts received pursuant to any surety  
1375 bond or insurance policy or from other sources for losses sustained by the Employment  
1376 Security Administration ~~[Fund]~~ Account or by reason of damage to equipment or supplies  
1377 purchased from ~~[moneys]~~ money in ~~[such fund]~~ the restricted account, and any proceeds  
1378 realized from the sale or disposition of any equipment or supplies which may no longer be  
1379 necessary for the proper administration of this chapter~~[-]~~; and

1380 (d) received from any other source for such purpose.

1381 (3) (a) ~~[All moneys in this fund]~~ Money in the restricted account shall be deposited,  
1382 administered, and disbursed, in accordance with the directions of the department.

1383 (b) The state treasurer shall pay all warrants drawn upon it by the division in  
1384 accordance with rules prescribed by the department.

1385 (4) The state treasurer shall be liable on his official bond for the faithful performance  
1386 of his duties in connection with the Employment Security Administration ~~[fund]~~ Account  
1387 provided for under this chapter. ~~[Such]~~ The liability on the official bond shall be effective  
1388 immediately upon the enactment of this provision, and ~~[such liability]~~ shall exist in addition to  
1389 any liability upon any separate bond existent on the effective date of this provision, or which  
1390 may be given in the future. All sums recovered on any surety bond for losses sustained by the  
1391 Employment Security Administration ~~[fund]~~ Account shall be deposited in ~~[said fund]~~ the

1392 restricted account.

1393 (5) If [~~any moneys~~] money received after June 30, 1941, from the Secretary of Labor  
1394 under Title III of the Social Security Act, or any unencumbered balances in the Employment  
1395 Security Administration [~~fund~~] Account as of that date, are found, after reasonable notice and  
1396 opportunity for hearing to the division, by the Secretary of Labor to have been lost or been  
1397 expended for purposes other than, or in amounts in excess of, those found necessary by the  
1398 Secretary of Labor for the proper administration of this chapter, the [~~moneys~~] money shall be  
1399 replaced within a reasonable time by [~~moneys~~] money appropriated for this purpose from the  
1400 general funds of this state to the Employment Security Administration [~~Fund~~] Account for  
1401 expenditure as provided in Subsection (1). Upon receipt of notice of such a finding by the  
1402 Secretary of Labor, the division shall promptly report the amount required for such replacement  
1403 to the governor.

1404 Section 31. Section **35A-4-506** is amended to read:

1405 **35A-4-506. Special Administrative Account.**

1406 (1) There is created [~~in the General Fund~~] a restricted account within the General Fund  
1407 known as the "Special Administrative Expense [~~Fund~~] Account."

1408 (2) (a) [~~All interest~~] Interest and penalties collected under this chapter, less refunds  
1409 made under Subsection 35A-4-306(5), shall be paid into [~~this fund~~] the restricted account from  
1410 the clearing account of the [~~fund~~] restricted account at the end of each calendar month.

1411 (b) [~~Any voluntary contributions tendered as a~~] A contribution to [~~this fund~~] the  
1412 restricted account and any other [~~moneys~~] money received for that purpose shall be paid into  
1413 [~~this fund~~] the restricted account.

1414 (c) The [~~moneys shall~~] money may not be expended [~~or available for expenditure~~] in  
1415 any manner that would permit their substitution for, or a corresponding reduction in, federal  
1416 funds that would in the absence of [~~those moneys~~] the money be available to finance  
1417 expenditures for the administration of this chapter.

1418 (3) Nothing in this section shall prevent [~~those moneys~~] the money from being used as  
1419 a revolving fund to cover expenditures, necessary and proper under this chapter, for which  
1420 federal funds have been duly requested but not yet received subject to the charging of those  
1421 expenditures against the funds when received.

1422 (4) [~~The moneys in this fund~~] Money in the restricted account shall be deposited,

1423 administered, and dispersed in accordance with the directions of the Legislature.

1424 (5) ~~[The moneys]~~ Money in the restricted account shall be used for the payment of  
1425 costs of administration that are found not to have been properly and validly chargeable against  
1426 federal grants or other funds received for or in the Employment Security Administration ~~[Fund]~~  
1427 Account, and may be used for the payment of refunds of interest and penalties under  
1428 Subsection 35A-4-306(5). ~~[The moneys]~~ Money shall be available either to satisfy ~~[the~~  
1429 ~~obligations]~~ an obligation incurred by the division directly or by requesting the state treasurer  
1430 to transfer the required amounts from the Special Administrative Expense ~~[Fund]~~ Account to  
1431 the Employment Security Administration ~~[Fund]~~ Account.

1432 (6) ~~[The moneys in this fund are hereby specifically]~~ Money in the restricted account is  
1433 made available to replace, within a reasonable time, any ~~[moneys]~~ money received by this state  
1434 under Section 302 of the Federal Social Security Act, 42 U.S.C. 502, as amended, that because  
1435 of any action of contingency have been lost or have been expended for purposes other than or  
1436 in amounts in excess of those necessary for the proper administration of this chapter.

1437 (7) ~~[The moneys in this fund]~~ Money in the restricted account shall be ~~[continuously]~~  
1438 available to the division for expenditure in accordance with this section and shall not lapse at  
1439 any time or be transferred to any other fund or account except as directed by the Legislature.

1440 (8) The state treasurer shall pay all warrants drawn upon it by the division or its duly  
1441 authorized agent in accordance with such rules as the department shall prescribe.

1442 (9) The state treasurer shall be liable on the state treasurer's official bond for the  
1443 faithful performance of the treasurer's duties in connection with the ~~[special administrative~~  
1444 ~~expense fund]~~ Special Administrative Expense Account provided for under this chapter.  
1445 Liability on the official bond shall exist in addition to any liability upon any separate bond  
1446 existent on the effective date of this provision or that may be given in the future. ~~[All sums]~~  
1447 Any money recovered on any surety bond losses sustained by the ~~[special administrative~~  
1448 ~~expense fund]~~ Special Administrative Expense Account shall be deposited in ~~[that fund]~~ the  
1449 restricted account or in the General Fund if so directed by the Legislature.

1450 Section 32. Section **35A-4-507** is amended to read:

1451 **35A-4-507. Authority to obtain money from state's account in federal**  
1452 **unemployment trust fund -- Use and deposit.**

1453 Notwithstanding the provisions of Sections 35A-4-501, 35A-4-505, and 35A-4-506, the

1454 department is authorized to requisition and receive from the state's account in the  
1455 unemployment trust fund in the treasury of the United States the moneys standing to the state's  
1456 credit as may, consistent with conditions for approval of this chapter under the Federal  
1457 Unemployment Tax Act, 26 U.S.C. 3301 et seq., be used for expenses of administering this  
1458 chapter and to expend such moneys for such purpose. Moneys so requisitioned shall be  
1459 deposited in the Special Administrative Expense [~~Fund~~] Account created by Section  
1460 35A-4-506.

1461 Section 33. Section **51-5-4** is amended to read:

1462 **51-5-4. Funds established -- Titles of funds -- Fund functions.**

1463 (1) (a) (i) The funds enumerated in this section are established as major fund types.

1464 (ii) All resources and financial transactions of Utah state government shall be  
1465 accounted for within one of these major fund types.

1466 (b) (i) All funds or subfunds shall be consolidated into one of the state's major fund  
1467 types.

1468 (ii) Where a specific statute requires that a restricted fund or account be established,  
1469 that fund or account shall be accounted for as an individual fund [~~or~~], subfund, or account  
1470 within the major fund type to meet generally accepted accounting principles.

1471 (iii) Existing and new activities of state government authorized by the Legislature shall  
1472 be accounted for within the framework of the major fund types established in this section.

1473 (c) The Division of Finance shall determine the accounting classification that complies  
1474 with generally accepted accounting principles for all funds [~~or~~], subfunds, or accounts created  
1475 by the Legislature.

1476 (d) (i) Major fund types shall be added by amending this chapter.

1477 (ii) Whenever a new act creates or establishes a fund, subfund, or account without  
1478 amending this chapter, the reference to a fund, subfund, or account in the new act shall be  
1479 classified within one of the major fund types established by this section.

1480 (2) Major Fund Type Titles:

1481 (a) General Fund;

1482 (b) Special Revenue Funds;

1483 (c) Capital Projects Funds;

1484 (d) Debt Service Funds;

- 1485 (e) Permanent Funds;
- 1486 (f) Enterprise Funds;
- 1487 (g) Internal Service Funds;
- 1488 (h) Trust and Agency Funds; and
- 1489 (i) Discrete Component Unit Funds.
- 1490 (3) The General Fund shall receive all revenues and account for all expenditures not
- 1491 otherwise provided for by law in any other fund.
- 1492 (4) Special Revenue Funds account for proceeds of specific revenue sources, other than
- 1493 permanent funds, trust and agency funds, or major capital projects, that are legally restricted to
- 1494 expenditures for a specific purpose.
- 1495 (a) The Education Fund is a Special Revenue Fund that:
- 1496 (i) receives all revenues from taxes on intangible property or from a tax on income; and
- 1497 (ii) is designated for public and higher education.
- 1498 ~~[(b) The Uniform School Fund is a Special Revenue Fund that accounts for all~~
- 1499 ~~revenues that are required by law to be expended for the public school programs of the state.]~~
- 1500 (b) The Transportation Investment Fund of 2005 is a Special Revenue Fund that
- 1501 accounts for revenues that are required by law to be expended for the maintenance,
- 1502 construction, reconstruction, or renovation of certain state and federal highways.
- 1503 (c) The Transportation Fund is a Special Revenue Fund that accounts for all revenues
- 1504 that are required by law to be expended for highway purposes.
- 1505 (d) (i) A Restricted Special Revenue Fund is a Special Revenue Fund created by
- 1506 legislation or contractual relationship with parties external to the state that:
- 1507 (A) identifies specific revenues collected from fees, taxes, dedicated credits, donations,
- 1508 federal funds, or other sources;
- 1509 (B) defines the use of the money in the fund for a specific function of government or
- 1510 program within an agency; and
- 1511 (C) delegates spending authority or authorization to use the fund's assets to a governing
- 1512 board, administrative department, or other officials as defined in the enabling legislation or
- 1513 contract establishing the fund.
- 1514 (ii) A Restricted Special Revenue Fund may only be created by contractual relationship
- 1515 with external parties when the sources of revenue for the fund are donated revenues or federal

1516 revenues.

1517 (iii) Restricted Special Revenue Funds are subject to annual legislative review by the  
1518 appropriate legislative appropriations subcommittee.

1519 (5) Capital Projects Funds account for financial resources to be expended for the  
1520 acquisition or construction of major capital facilities, except that when financing for the  
1521 acquisition or construction of a major capital facility is obtained from a trust fund or a  
1522 proprietary type fund within one of the major fund types, the monies shall be accounted for in  
1523 those accounts.

1524 (6) Debt Service Funds account for the accumulation of resources for, and the payment  
1525 of, the principal and interest on general long-term obligations.

1526 (7) Permanent Funds account for assets that are legally restricted to the extent that only  
1527 earnings, and not principal, may be used for a specific purpose.

1528 (8) Enterprise Funds are designated to account for the following:

1529 (a) operations, financed and operated in a manner similar to private business  
1530 enterprises, where the Legislature intends that the costs of providing goods or services to the  
1531 public are financed or recovered primarily through user charges;

1532 (b) operations where the Legislature requires periodic determination of revenues  
1533 earned, expenses incurred, and net income;

1534 (c) operations for which a fee is charged to external users for goods or services; or

1535 (d) operations that are financed with debt that is secured solely by a pledge of the net  
1536 revenues from fees and charges of the operations.

1537 (9) Internal Service Funds account for the financing of goods or services provided by  
1538 one department, division, or agency to other departments, divisions, or agencies of the state, or  
1539 to other governmental units, on a cost-reimbursement basis.

1540 (10) (a) Trust and Agency Funds account for assets held by the state as trustee or agent  
1541 for individuals, private organizations, or other governmental units.

1542 (b) Pension Trust Funds, Investment Trust Funds, Private-Purpose Trust Funds, and  
1543 Agency Funds are Trust and Agency Funds.

1544 (11) Discrete Component Unit Funds account for the financial resources used to  
1545 operate the state's colleges and universities and other discrete component units.

1546 Section 34. Section **51-9-407** is amended to read:

1547 **51-9-407. Intoxicated Driver Rehabilitation Account share of surcharge.**

1548 The Division of Finance shall allocate 7.5% of the collected surcharge established in  
1549 Section 51-9-401, but not to exceed the amount appropriated by the Legislature, to the  
1550 Intoxicated Driver Rehabilitation Account [~~established by Section 62A-15-503~~] created in  
1551 Section 62A-15-502.5.

1552 Section 35. Section **53-10-602** is amended to read:

1553 **53-10-602. Committee's duties and powers.**

1554 (1) The committee shall:

1555 (a) review and make recommendations to the division, the Bureau of Communications,  
1556 public safety answering points, and the Legislature on:

1557 (i) technical, administrative, fiscal, and operational issues for the implementation of a  
1558 unified statewide wireless and land-based E-911 emergency system;

1559 (ii) specific technology and standards for the implementation of a unified statewide  
1560 wireless and land-based E-911 emergency system;

1561 (iii) emerging technological upgrades;

1562 (iv) expenditures by local public service answering points to assure implementation of  
1563 a unified statewide wireless and land-based E-911 emergency system and standards of  
1564 operation; and

1565 (v) mapping systems and technology necessary to implement the unified statewide  
1566 wireless and land-based E-911 emergency system;

1567 (b) administer the [~~fund~~] Statewide Unified E-911 Emergency Service Account as  
1568 provided in this part;

1569 (c) assist as many local entities as possible, at their request, to implement the  
1570 recommendations of the committee; and

1571 (d) fulfill all other duties imposed on the committee by the Legislature by this part.

1572 (2) The committee may sell, lease, or otherwise dispose of equipment or personal  
1573 property belonging to the committee, the proceeds from which shall return to the [~~fund~~]  
1574 restricted account.

1575 (3) (a) The committee shall review information regarding:

1576 (i) in aggregate, the number of telecommunication service subscribers by  
1577 telecommunication service type in a political subdivision;

1578 (ii) 911 call delivery network costs;  
1579 (iii) public safety answering point costs; and  
1580 (iv) system engineering information.

1581 (b) In accordance with Subsection (3)(a) the committee may request:  
1582 (i) information as described in Subsection (3)(a)(i) from the Utah State Tax  
1583 Commission; and  
1584 (ii) information from public safety answering points connected to the 911 call delivery  
1585 system.

1586 (c) The information requested by and provided to the committee under Subsection (3)  
1587 is a protected record in accordance with Section 63G-2-305.

1588 (4) The committee shall issue the reimbursement allowed under Subsection  
1589 53-10-605(1)(b) provided that:  
1590 (a) the reimbursement is based on aggregated cost studies submitted to the committee  
1591 by the wireless carriers seeking reimbursement; and  
1592 (b) the reimbursement to any one carrier does not exceed 125% of the wireless carrier's  
1593 contribution to the ~~[fund]~~ restricted account.

1594 (5) The committee shall adopt rules in accordance with Title 63G, Chapter 3, Utah  
1595 Administrative Rulemaking Act, to administer the ~~[fund]~~ restricted account created in Section  
1596 53-10-603 including rules that establish the criteria, standards, technology, and equipment that  
1597 a local entity or state agency must adopt in order to qualify for grants from the ~~[fund]~~ restricted  
1598 account.

1599 (6) This section does not expand the authority of the Utah State Tax Commission to  
1600 request additional information from a telecommunication service provider.

1601 Section 36. Section **53-10-603** is amended to read:  
1602 **53-10-603. Creation of Statewide Unified E-911 Emergency Service Account.**  
1603 (1) There is created a restricted account ~~[in]~~ within the General Fund ~~[entitled]~~ known  
1604 as the "Statewide Unified E-911 Emergency Service ~~[Fund," or "fund"]~~ Account." consisting  
1605 of:  
1606 (a) proceeds from the fee imposed in Section 69-2-5.6;  
1607 (b) money appropriated or otherwise made available by the Legislature; and  
1608 (c) contributions of money, property, or equipment from federal agencies, political

1609 subdivisions of the state, persons, or corporations.

1610 (2) The [~~monies~~] money in this [~~fund~~] restricted account shall be used exclusively for  
1611 the following statewide public purposes:

1612 (a) enhancing public safety as provided in this chapter;

1613 (b) providing a statewide, unified, wireless E-911 service available to public service  
1614 answering points; and

1615 (c) providing reimbursement to providers for certain costs associated with Phase II  
1616 wireless E-911 service.

1617 Section 37. Section **53-10-604** is amended to read:

1618 **53-10-604. Committee expenses -- Tax Commission expenses -- Division of**  
1619 **Finance responsibilities.**

1620 (1) Committee expenses and the costs of administering grants from the [~~fund~~]  
1621 restricted account, as provided in Subsection (3), shall be paid from the [~~fund~~] restricted  
1622 account.

1623 (2) (a) The expenses and costs of the State Tax Commission to administer and enforce  
1624 the collection of the telephone levy imposed by Section 69-2-5.6 shall be paid from the [~~fund~~]  
1625 restricted account.

1626 (b) (i) The State Tax Commission may charge the [~~fund~~] restricted account the  
1627 administrative costs incurred in discharging the responsibilities imposed by Section 69-2-5.6.

1628 (ii) The charges in Subsection (2)(b)(i) may not exceed an amount equal to 1.5% of the  
1629 charges imposed under Section 69-2-5.6.

1630 (3) (a) The Division of Finance shall be responsible for the care, custody, safekeeping,  
1631 collection, and accounting for grants issued by the committee under the provisions of Section  
1632 53-10-605.

1633 (b) The Division of Finance may charge the [~~fund~~] restricted account the administrative  
1634 costs incurred in discharging the responsibilities imposed by Subsection (3)(a).

1635 Section 38. Section **53-10-605** is amended to read:

1636 **53-10-605. Use of money in restricted account -- Criteria -- Administration.**

1637 (1) Subject to an annual legislative appropriation from the [~~fund~~] restricted account to:

1638 (a) the committee, the committee shall:

1639 (i) authorize the use of the money in the fund, by grant to a local entity or state agency

1640 in accordance with this Subsection (1) and Subsection (2);

1641 (ii) grant to state agencies and local entities an amount not to exceed the per month fee  
1642 levied on telecommunications service under Section 69-2-5.6 for installation, implementation,  
1643 and maintenance of unified, statewide 911 emergency services and technology; and

1644 (iii) in addition to any money under Subsection (1)(a)(ii), grant to counties of the third  
1645 through sixth class the amount dedicated for rural assistance, which is at least 3 cents per  
1646 month levied on telecommunications service under Section 69-2-5.6 to:

1647 (A) enhance the 911 emergency services with a focus on areas or counties that do not  
1648 have E-911 services; and

1649 (B) where needed, assist the counties, in cooperation with private industry, with the  
1650 creation or integration of wireless systems and location technology in rural areas of the state;

1651 (b) the committee, the committee shall:

1652 (i) include reimbursement to a provider of radio communications service, as defined in  
1653 Section 69-2-2, for costs as provided in Subsection (1)(b)(ii); and

1654 (ii) an agreement to reimburse costs to a provider of radio communications services  
1655 must be a written agreement among the committee, the local public safety answering point and  
1656 the carrier; and

1657 (c) the state's Automated Geographic Reference Center in the Division of Integrated  
1658 Technology of the Department of Technology Services, an amount equal to 1 cent per month  
1659 levied on telecommunications service under Section 69-2-5.6 shall be used to enhance and  
1660 upgrade statewide digital mapping standards.

1661 (2) (a) Beginning July 1, 2007, the committee may not grant the money in the [~~fund~~]  
1662 restricted account to a local entity unless the local entity is in compliance with Phase I, wireless  
1663 E-911 service.

1664 (b) Beginning July 1, 2009, the committee may not grant money in the [~~fund~~] restricted  
1665 account to a local entity unless the local entity is in compliance with Phase II, wireless E-911  
1666 service.

1667 (3) A local entity must deposit any money it receives from the committee into a special  
1668 emergency telecommunications service fund in accordance with Subsection 69-2-5(4).

1669 (4) For purposes of this part, "local entity" means a county, city, town, local district,  
1670 special service district, or interlocal entity created under Title 11, Chapter 13, Interlocal

1671 Cooperation Act.

1672 Section 39. Section **53-10-606** is amended to read:

1673 **53-10-606. Committee to report annually.**

1674 (1) The committee shall submit an annual report to the Executive Appropriations

1675 Committee of the Legislature which shall include:

1676 (a) the total aggregate surcharge collected by local entities and the state in the last  
1677 fiscal year under Sections 69-2-5 and 69-2-5.6;

1678 (b) the amount of each disbursement from the [~~fund~~] restricted account;

1679 (c) the recipient of each disbursement and describing the project for which money was  
1680 disbursed;

1681 (d) the conditions, if any, placed by the committee on disbursements from the [~~fund~~]  
1682 restricted account;

1683 (e) the planned expenditures from the [~~fund~~] restricted account for the next fiscal year;

1684 (f) the amount of any unexpended funds carried forward;

1685 (g) a cost study to guide the Legislature towards necessary adjustments of both the  
1686 Statewide Unified E-911 Emergency Service [~~Fund~~] Account and the monthly emergency  
1687 services telephone charge imposed under Section 69-2-5; and

1688 (h) a progress report of local government implementation of wireless and land-based  
1689 E-911 services including:

1690 (i) a fund balance or balance sheet from each agency maintaining its own emergency  
1691 telephone service fund;

1692 (ii) a report from each public safety answering point of annual call activity separating  
1693 wireless and land-based 911 call volumes; and

1694 (iii) other relevant justification for ongoing support from the Statewide Unified E-911  
1695 Emergency Service [~~Fund~~] Account created by Section 53-10-603.

1696 (2) (a) The committee may request information from a local entity as necessary to  
1697 prepare the report required by this section.

1698 (b) A local entity imposing a levy under Section 69-2-5 or receiving a grant under  
1699 Section 53-10-605 shall provide the information requested pursuant to Subsection (2)(a).

1700 Section 40. Section **53A-16-101** is amended to read:

1701 **53A-16-101. Uniform School Fund -- Contents -- Interest and Dividends Account.**

1702 (1) The Uniform School Fund, a special revenue fund within the Education Fund,  
1703 established by Utah Constitution, Article X, Section 5, consists of:

1704 (a) interest and dividends derived from the investment of monies in the permanent  
1705 State School Fund established by Utah Constitution, Article X, Section 5;

1706 (b) money transferred to the fund pursuant to Title 67, Chapter 4a, Unclaimed Property  
1707 Act; and

1708 (c) all other constitutional or legislative allocations to the fund, including revenues  
1709 received by donation.

1710 (2) (a) There is created within the Uniform School Fund a restricted account known as  
1711 the Interest and Dividends Account.

1712 (b) The Interest and Dividends Account consists of:

1713 (i) interest and dividends derived from the investment of monies in the permanent State  
1714 School Fund referred to in Subsection (1)(a); and

1715 (ii) interest on account [~~monies~~] money.

1716 (3) (a) Upon appropriation by the Legislature, [~~monies~~] money from the Interest and  
1717 Dividends Account shall be used for the School LAND Trust Program as provided in Section  
1718 53A-16-101.5.

1719 (b) The Legislature may appropriate any remaining balance for the support of the  
1720 public education system.

1721 Section 41. Section **58-31b-103** is amended to read:

1722 **58-31b-103. Nurse Education and Enforcement Account.**

1723 (1) There is created [~~within the General Fund~~] a restricted account within the General  
1724 Fund known as the "Nurse Education and Enforcement [~~Fund.~~] Account."

1725 (2) The restricted account shall be nonlapsing and consist of:

1726 (a) administrative penalties imposed under Section 58-31b-503; and

1727 (b) interest earned on [~~monies~~] money in the account.

1728 (3) [~~Monies~~] Money in the account may be appropriated by the Legislature for the  
1729 following purposes:

1730 (a) education and training of licensees or potential licensees under this chapter;

1731 (b) enforcement of this chapter by:

1732 (i) investigating unprofessional or unlawful conduct;

- 1733 (ii) providing legal representation to the division when legal action is taken against a  
1734 person engaging in unprofessional or unlawful conduct; and  
1735 (iii) monitoring compliance of renewal requirements;  
1736 (c) survey nursing education programs throughout the state;  
1737 (d) education and training of board members; and  
1738 (e) review and approve nursing education programs and medication aide certified  
1739 training programs.

1740 Section 42. Section **58-31b-503** is amended to read:

1741 **58-31b-503. Penalties and administrative actions for unlawful conduct and**  
1742 **unprofessional conduct.**

1743 (1) Any person who violates the unlawful conduct provision specifically defined in  
1744 Subsection 58-1-501(1)(a) is guilty of a third degree felony.

1745 (2) Any person who violates any of the unlawful conduct provisions specifically  
1746 defined in Subsections 58-1-501(1)(b) through (f) and 58-31b-501(1)(d) is guilty of a class A  
1747 misdemeanor.

1748 (3) Any person who violates any of the unlawful conduct provisions specifically  
1749 defined in this chapter and not set forth in Subsection (1) or (2) is guilty of a class B  
1750 misdemeanor.

1751 (4) (a) Subject to Subsection (6) and in accordance with Section 58-31b-401, for acts  
1752 of unprofessional or unlawful conduct, the division may:

- 1753 (i) assess administrative penalties; and  
1754 (ii) take any other appropriate administrative action.

1755 (b) An administrative penalty imposed pursuant to this section shall be deposited in the  
1756 "Nurse Education and Enforcement ~~Fund~~ Account" as provided in Section 58-31b-103.

1757 (5) If a licensee has been convicted of violating Section 58-31b-501 prior to an  
1758 administrative finding of a violation of the same section, the licensee may not be assessed an  
1759 administrative fine under this chapter for the same offense for which the conviction was  
1760 obtained.

1761 (6) (a) If upon inspection or investigation, the division concludes that a person has  
1762 violated the provisions of Sections 58-31b-401, 58-31b-501, or 58-31b-502, Chapter 1,  
1763 Division of Occupational and Professional Licensing Act, Chapter 37, Utah Controlled

1764 Substances Act, or any rule or order issued with respect to these provisions, and that  
1765 disciplinary action is appropriate, the director or the director's designee from within the  
1766 division shall:

1767 (i) promptly issue a citation to the person according to this chapter and any pertinent  
1768 administrative rules;

1769 (ii) attempt to negotiate a stipulated settlement; or

1770 (iii) notify the person to appear before an adjudicative proceeding conducted under  
1771 Title 63G, Chapter 4, Administrative Procedures Act.

1772 (b) Any person who is in violation of a provision described in Subsection (6)(a), as  
1773 evidenced by an uncontested citation, a stipulated settlement, or a finding of violation in an  
1774 adjudicative proceeding may be assessed a fine:

1775 (i) pursuant to this Subsection (6) of up to \$10,000 per single violation or up to \$2,000  
1776 per day of ongoing violation, whichever is greater, in accordance with a fine schedule  
1777 established by rule; and

1778 (ii) in addition to or in lieu of the fine imposed under Subsection (6)(b)(i), be ordered  
1779 to cease and desist from violating a provision of Sections 58-31b-501 and 58-31b-502, Chapter  
1780 1, Division of Occupational and Professional Licensing Act, Chapter 37, Utah Controlled  
1781 Substances Act, or any rule or order issued with respect to those provisions.

1782 (c) Except for an administrative fine and a cease and desist order, the licensure  
1783 sanctions cited in Section 58-31b-401 may not be assessed through a citation.

1784 (d) Each citation issued under this section shall:

1785 (i) be in writing; and

1786 (ii) clearly describe or explain:

1787 (A) the nature of the violation, including a reference to the provision of the chapter,  
1788 rule, or order alleged to have been violated;

1789 (B) that the recipient must notify the division in writing within 20 calendar days of  
1790 service of the citation in order to contest the citation at a hearing conducted under Title 63G,  
1791 Chapter 4, Administrative Procedures Act; and

1792 (C) the consequences of failure to timely contest the citation or to make payment of  
1793 any fines assessed by the citation within the time specified in the citation; and

1794 (iii) be served upon any person upon whom a summons may be served:

- 1795 (A) in accordance with the Utah Rules of Civil Procedure;
- 1796 (B) personally or upon the person's agent by a division investigator or by any person
- 1797 specially designated by the director; or
- 1798 (C) by mail.
- 1799 (e) If within 20 calendar days from the service of a citation, the person to whom the
- 1800 citation was issued fails to request a hearing to contest the citation, the citation becomes the
- 1801 final order of the division and is not subject to further agency review. The period to contest the
- 1802 citation may be extended by the division for cause.
- 1803 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation
- 1804 the license of a licensee who fails to comply with the citation after it becomes final.
- 1805 (g) The failure of an applicant for licensure to comply with a citation after it becomes
- 1806 final is a ground for denial of license.
- 1807 (h) No citation may be issued under this section after the expiration of six months
- 1808 following the occurrence of any violation.
- 1809 Section 43. Section **58-37-7.5** is amended to read:
- 1810 **58-37-7.5. Controlled substance database -- Pharmacy reporting requirements --**
- 1811 **Access -- Penalties.**
- 1812 (1) As used in this section:
- 1813 (a) "Board" means the Utah State Board of Pharmacy created in Section 58-17b-201.
- 1814 (b) "Database" means the controlled substance database created in this section.
- 1815 (c) "Database manager" means the person responsible for operating the database, or the
- 1816 person's designee.
- 1817 (d) "Division" means the Division of Occupational and Professional Licensing created
- 1818 in Section 58-1-103.
- 1819 (e) "Health care facility" is as defined in Section 26-21-2.
- 1820 (f) "Mental health therapist" is as defined in Section 58-60-102.
- 1821 (g) "Pharmacy" or "pharmaceutical facility" is as defined in Section 58-17b-102.
- 1822 (h) "Prospective patient" means a person who:
- 1823 (i) is seeking medical advice, medical treatment, or medical services from a
- 1824 practitioner; and
- 1825 (ii) the practitioner described in Subsection (1)(h)(i) is considering accepting as a

1826 patient.

1827 (i) "Substance abuse treatment program" is as defined in Section 62A-2-101.

1828 (2) (a) There is created within the division a controlled substance database.

1829 (b) The division shall administer and direct the functioning of the database in  
1830 accordance with this section. The division may under state procurement laws contract with  
1831 another state agency or private entity to establish, operate, or maintain the database. The  
1832 division in collaboration with the board shall determine whether to operate the database within  
1833 the division or contract with another entity to operate the database, based on an analysis of  
1834 costs and benefits.

1835 (c) The purpose of the database is to contain data as described in this section regarding  
1836 every prescription for a controlled substance dispensed in the state to any person other than an  
1837 inpatient in a licensed health care facility.

1838 (d) Data required by this section shall be submitted in compliance with this section to  
1839 the manager of the database by the pharmacist in charge of the drug outlet where the controlled  
1840 substance is dispensed.

1841 (3) The board shall advise the division regarding:

1842 (a) establishing, maintaining, and operating the database;

1843 (b) access to the database and how access is obtained; and

1844 (c) control of information contained in the database.

1845 (4) The pharmacist in charge shall, regarding each controlled substance dispensed by a  
1846 pharmacist under the pharmacist's supervision other than those dispensed for an inpatient at a  
1847 health care facility, submit to the manager of the database the following information, by a  
1848 procedure and in a format established by the division:

1849 (a) name of the prescribing practitioner;

1850 (b) date of the prescription;

1851 (c) date the prescription was filled;

1852 (d) name of the person for whom the prescription was written;

1853 (e) positive identification of the person receiving the prescription, including the type of  
1854 identification and any identifying numbers on the identification;

1855 (f) name of the controlled substance;

1856 (g) quantity of controlled substance prescribed;

- 1857 (h) strength of controlled substance;
- 1858 (i) quantity of controlled substance dispensed;
- 1859 (j) dosage quantity and frequency as prescribed;
- 1860 (k) name of drug outlet dispensing the controlled substance;
- 1861 (l) name of pharmacist dispensing the controlled substance; and
- 1862 (m) other relevant information as required by division rule.
- 1863 (5) The division shall maintain the database in an electronic file or by other means
- 1864 established by the division to facilitate use of the database for identification of:
- 1865 (a) prescribing practices and patterns of prescribing and dispensing controlled
- 1866 substances;
- 1867 (b) practitioners prescribing controlled substances in an unprofessional or unlawful
- 1868 manner;
- 1869 (c) individuals receiving prescriptions for controlled substances from licensed
- 1870 practitioners, and who subsequently obtain dispensed controlled substances from a drug outlet
- 1871 in quantities or with a frequency inconsistent with generally recognized standards of dosage for
- 1872 that controlled substance; and
- 1873 (d) individuals presenting forged or otherwise false or altered prescriptions for
- 1874 controlled substances to a pharmacy.
- 1875 (6) (a) The division shall by rule establish the electronic format in which the
- 1876 information required under this section shall be submitted to the administrator of the database.
- 1877 (b) The division shall ensure the database system records and maintains for reference:
- 1878 (i) identification of each person who requests or receives information from the
- 1879 database;
- 1880 (ii) the information provided to each person; and
- 1881 (iii) the date and time the information is requested or provided.
- 1882 (7) The division shall make rules to:
- 1883 (a) effectively enforce the limitations on access to the database as described in
- 1884 Subsection (8); and
- 1885 (b) establish standards and procedures to ensure accurate identification of individuals
- 1886 requesting information or receiving information without request from the database.
- 1887 (8) The manager of the database shall make information in the database available only

1888 to the following persons, in accordance with the requirements of this section and division rules:

1889 (a) personnel of the division specifically assigned to conduct investigations related to  
1890 controlled substances laws under the jurisdiction of the division;

1891 (b) authorized division personnel engaged in analysis of controlled substance  
1892 prescription information as a part of the assigned duties and responsibilities of their  
1893 employment;

1894 (c) employees of the Department of Health whom the director of the Department of  
1895 Health assigns to conduct scientific studies regarding the use or abuse of controlled substances,  
1896 provided that the identity of the individuals and pharmacies in the database are confidential and  
1897 are not disclosed in any manner to any individual who is not directly involved in the scientific  
1898 studies;

1899 (d) a licensed practitioner having authority to prescribe controlled substances, to the  
1900 extent the information:

1901 (i) (A) relates specifically to a current or prospective patient of the practitioner; and

1902 (B) is sought by the practitioner for the purpose of:

1903 (I) prescribing or considering prescribing any controlled substance to the current or  
1904 prospective patient;

1905 (II) diagnosing the current or prospective patient;

1906 (III) providing medical treatment or medical advice to the current or prospective  
1907 patient; or

1908 (IV) determining whether the current or prospective patient:

1909 (Aa) is attempting to fraudulently obtain a controlled substance from the practitioner;

1910 or

1911 (Bb) has fraudulently obtained, or attempted to fraudulently obtain, a controlled  
1912 substance from the practitioner;

1913 (ii) (A) relates specifically to a former patient of the practitioner; and

1914 (B) is sought by the practitioner for the purpose of determining whether the former  
1915 patient has fraudulently obtained, or has attempted to fraudulently obtain, a controlled  
1916 substance from the practitioner;

1917 (iii) relates specifically to an individual who has access to the practitioner's Drug  
1918 Enforcement Administration number, and the practitioner suspects that the individual may have

1919 used the practitioner's Drug Enforcement Administration identification number to fraudulently  
1920 acquire or prescribe a controlled substance;

1921 (iv) relates to the practitioner's own prescribing practices, except when specifically  
1922 prohibited by the division by administrative rule;

1923 (v) relates to the use of the controlled substance database by an employee of the  
1924 practitioner, described in Subsection (8)(e); or

1925 (vi) relates to any use of the practitioner's Drug Enforcement Administration  
1926 identification number to obtain, attempt to obtain, prescribe, or attempt to prescribe, a  
1927 controlled substance;

1928 (e) in accordance with Subsection (17), an employee of a practitioner described in  
1929 Subsection (8)(d), for a purpose described in Subsection (8)(d)(i) or (ii), if:

1930 (i) the employee is designated by the practitioner as a person authorized to access the  
1931 information on behalf of the practitioner;

1932 (ii) the practitioner provides written notice to the division of the identity of the  
1933 employee; and

1934 (iii) the division:

1935 (A) grants the employee access to the database; and

1936 (B) provides the employee with a password that is unique to that employee to access  
1937 the database in order to permit the division to comply with the requirements of Subsection  
1938 (6)(b) with respect to the employee;

1939 (f) a licensed pharmacist having authority to dispense controlled substances to the  
1940 extent the information is sought for the purpose of:

1941 (i) dispensing or considering dispensing any controlled substance; or

1942 (ii) determining whether a person:

1943 (A) is attempting to fraudulently obtain a controlled substance from the pharmacist; or

1944 (B) has fraudulently obtained, or attempted to fraudulently obtain, a controlled  
1945 substance from the pharmacist;

1946 (g) federal, state, and local law enforcement authorities, and state and local  
1947 prosecutors, engaged as a specified duty of their employment in enforcing laws:

1948 (i) regulating controlled substances; or

1949 (ii) investigating insurance fraud, Medicaid fraud, or Medicare fraud;

1950 (h) a mental health therapist, if:  
1951 (i) the information relates to a patient who is:  
1952 (A) enrolled in a licensed substance abuse treatment program; and  
1953 (B) receiving treatment from, or under the direction of, the mental health therapist as  
1954 part of the patient's participation in the licensed substance abuse treatment program described  
1955 in Subsection (8)(h)(i)(A);  
1956 (ii) the information is sought for the purpose of determining whether the patient is  
1957 using a controlled substance while the patient is enrolled in the licensed substance abuse  
1958 treatment program described in Subsection (8)(h)(i)(A); and  
1959 (iii) the licensed substance abuse treatment program described in Subsection  
1960 (8)(h)(i)(A) is associated with a practitioner who:  
1961 (A) is a physician, a physician assistant, an advance practice registered nurse, or a  
1962 pharmacist; and  
1963 (B) is available to consult with the mental health therapist regarding the information  
1964 obtained by the mental health therapist, under this Subsection (8)(h), from the database; and  
1965 (i) an individual who is the recipient of a controlled substance prescription entered into  
1966 the database, upon providing evidence satisfactory to the database manager that the individual  
1967 requesting the information is in fact the person about whom the data entry was made.  
1968 (9) Any person who knowingly and intentionally releases any information in the  
1969 database in violation of the limitations under Subsection (8) is guilty of a third degree felony.  
1970 (10) (a) Any person who obtains or attempts to obtain information from the database  
1971 by misrepresentation or fraud is guilty of a third degree felony.  
1972 (b) Any person who obtains or attempts to obtain information from the database for a  
1973 purpose other than a purpose authorized by this section or by rule is guilty of a third degree  
1974 felony.  
1975 (11) (a) Except as provided in Subsection (11)(d), a person may not knowingly and  
1976 intentionally use, release, publish, or otherwise make available to any other person or entity any  
1977 information obtained from the database for any purpose other than those specified in  
1978 Subsection (8). Each separate violation of this Subsection (11) is a third degree felony and is  
1979 also subject to a civil penalty not to exceed \$5,000.  
1980 (b) The procedure for determining a civil violation of this Subsection (11) shall be in

1981 accordance with Section 58-1-108, regarding adjudicative proceedings within the division.

1982 (c) Civil penalties assessed under this Subsection (11) shall be deposited in the General  
1983 Fund as a dedicated credit to be used by the division under Subsection 58-37-7.7(1).

1984 (d) Nothing in this Subsection (11) prohibits a person who obtains information from  
1985 the database under Subsection (8)(d) or (e) from:

1986 (i) including the information in the person's medical chart or file for access by a person  
1987 authorized to review the medical chart or file; or

1988 (ii) providing the information to a person in accordance with the requirements of the  
1989 Health Insurance Portability and Accountability Act of 1996.

1990 (12) (a) The failure of a pharmacist in charge to submit information to the database as  
1991 required under this section after the division has submitted a specific written request for the  
1992 information or when the division determines the individual has a demonstrable pattern of  
1993 failing to submit the information as required is grounds for the division to take the following  
1994 actions in accordance with Section 58-1-401:

1995 (i) refuse to issue a license to the individual;

1996 (ii) refuse to renew the individual's license;

1997 (iii) revoke, suspend, restrict, or place on probation the license;

1998 (iv) issue a public or private reprimand to the individual;

1999 (v) issue a cease and desist order; and

2000 (vi) impose a civil penalty of not more than \$1,000 for each dispensed prescription  
2001 regarding which the required information is not submitted.

2002 (b) Civil penalties assessed under Subsection (12)(a)(vi) shall be deposited in the  
2003 General Fund as a dedicated credit to be used by the division under Subsection 58-37-7.7(1).

2004 (c) The procedure for determining a civil violation of this Subsection (12) shall be in  
2005 accordance with Section 58-1-108, regarding adjudicative proceedings within the division.

2006 (13) An individual who has submitted information to the database in accordance with  
2007 this section may not be held civilly liable for having submitted the information.

2008 (14) All department and the division costs necessary to establish and operate the  
2009 database shall be funded by appropriations from:

2010 (a) the Commerce Service ~~[Fund]~~ Account created by Section 13-1-2; and

2011 (b) the General Fund.

2012 (15) All costs associated with recording and submitting data as required in this section  
2013 shall be assumed by the submitting pharmacy.

2014 (16) (a) Except as provided in Subsection (16)(b), data provided to, maintained in, or  
2015 accessed from the database that may be identified to, or with, a particular person is not subject  
2016 to discovery, subpoena, or similar compulsory process in any civil, judicial, administrative, or  
2017 legislative proceeding, nor shall any individual or organization with lawful access to the data  
2018 be compelled to testify with regard to the data.

2019 (b) The restrictions in Subsection (16)(a) do not apply to:

2020 (i) a criminal proceeding; or

2021 (ii) a civil, judicial, or administrative action brought to enforce the provisions of this  
2022 section, Section 58-37-7.7, or Section 58-37-7.8.

2023 (17) (a) A practitioner described in Subsection (8)(d) may designate up to three  
2024 employees to access information from the database under Subsection (8)(e).

2025 (b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah  
2026 Administrative Rulemaking Act, to establish background check procedures to determine  
2027 whether an employee designated under Subsection (8)(e)(i) should be granted access to the  
2028 database.

2029 (c) The division shall grant an employee designated under Subsection (8)(e)(i) access  
2030 to the database, unless the division determines, based on a background check, that the  
2031 employee poses a security risk to the information contained in the database.

2032 (d) The division may impose a fee, in accordance with Section 63J-1-504, on a  
2033 practitioner who designates an employee under Subsection (8)(e)(i), to pay for the costs  
2034 incurred by the division to conduct the background check and make the determination  
2035 described in Subsection (17)(c).

2036 (18) (a) A person who is granted access to the database based on the fact that the  
2037 person is a licensed practitioner or a mental health therapist shall be denied access to the  
2038 database when the person is no longer licensed.

2039 (b) A person who is granted access to the database based on the fact that the person is a  
2040 designated employee of a licensed practitioner shall be denied access to the database when the  
2041 practitioner is no longer licensed.

2042 (19) A person who is a relative of a deceased individual is not entitled to access

2043 information from the database relating to the deceased individual based on the fact or claim  
2044 that the person is:

- 2045 (a) related to the deceased individual; or
- 2046 (b) subrogated to the rights of the deceased individual.

2047 Section 44. Section **58-44a-103** is amended to read:

2048 **58-44a-103. Certified Nurse Midwife Education and Enforcement Account.**

2049 (1) There is created [~~within the General Fund~~] a restricted account within the General  
2050 Fund known as the "Certified Nurse Midwife Education and Enforcement [~~Fund.~~] Account."

2051 (2) The restricted account shall be nonlapsing and consist of:

- 2052 (a) administrative penalties imposed under Section 58-44a-402; and
- 2053 (b) interest earned on [~~monies~~] money in the account.

2054 (3) [~~Monies~~] Money in the account may be appropriated by the Legislature for the  
2055 following purposes:

- 2056 (a) education and training of licensees under this chapter;
- 2057 (b) enforcement of this chapter by:
  - 2058 (i) investigating unprofessional or unlawful conduct;
  - 2059 (ii) providing legal representation to the division when legal action is taken against a  
2060 person engaging in unprofessional or unlawful conduct; and
  - 2061 (iii) monitoring compliance of renewal requirements; and
- 2062 (c) education and training of board members.

2063 Section 45. Section **58-55-503** is amended to read:

2064 **58-55-503. Penalty for unlawful conduct -- Citations.**

2065 (1) (a) (i) A person who violates Subsection 58-55-308(2), Subsection 58-55-501(1),  
2066 (2), (3), (4), (5), (6), (7), (9), (10), (12), (14), or (15), or Subsection 58-55-504(2), or who fails  
2067 to comply with a citation issued under this section after it is final, is guilty of a class A  
2068 misdemeanor.

2069 (ii) As used in this section in reference to Subsection 58-55-504(2), "person" means an  
2070 individual and does not include a sole proprietorship, joint venture, corporation, limited  
2071 liability company, association, or organization of any type.

2072 (b) A person who violates the provisions of Subsection 58-55-501(8) may not be  
2073 awarded and may not accept a contract for the performance of the work.

2074 (2) A person who violates the provisions of Subsection 58-55-501(13) is guilty of an  
2075 infraction unless the violator did so with the intent to deprive the person to whom money is to  
2076 be paid of the money received, in which case the violator is guilty of theft, as classified in  
2077 Section 76-6-412.

2078 (3) Grounds for immediate suspension of the licensee's license by the division and the  
2079 commission include the issuance of a citation for violation of Subsection 58-55-308(2), Section  
2080 58-55-501, or Subsection 58-55-504(2), or the failure by a licensee to make application to,  
2081 report to, or notify the division with respect to any matter for which application, notification, or  
2082 reporting is required under this chapter or rules adopted under this chapter, including applying  
2083 to the division for a new license to engage in a new specialty classification or to do business  
2084 under a new form of organization or business structure, filing with the division current  
2085 financial statements, notifying the division concerning loss of insurance coverage, or change in  
2086 qualifier.

2087 (4) (a) If upon inspection or investigation, the division concludes that a person has  
2088 violated the provisions of Subsection 58-55-308(2) or Subsections 58-55-501(1), (2), (3), (9),  
2089 (10), (12), (14), (19), (21), or Subsection 58-55-504(2), or any rule or order issued with respect  
2090 to these subsections, and that disciplinary action is appropriate, the director or the director's  
2091 designee from within the division shall promptly issue a citation to the person according to this  
2092 chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person  
2093 to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4,  
2094 Administrative Procedures Act.

2095 (i) A person who is in violation of the provisions of Subsection 58-55-308(2),  
2096 Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), or (21), or Subsection  
2097 58-55-504(2), as evidenced by an uncontested citation, a stipulated settlement, or by a finding  
2098 of violation in an adjudicative proceeding, may be assessed a fine pursuant to this Subsection  
2099 (4) and may, in addition to or in lieu of, be ordered to cease and desist from violating  
2100 Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (19), or (21),  
2101 or Subsection 58-55-504(2).

2102 (ii) Except for a cease and desist order, the licensure sanctions cited in Section  
2103 58-55-401 may not be assessed through a citation.

2104 (iii) (A) A person who receives a citation or is fined for violating Subsection

2105 58-55-501(21) may also be issued a cease and desist order from engaging in work to be  
2106 performed by a contractor licensed under this chapter unless the person meets the continuing  
2107 education requirement within 30 days after receipt of the citation or fine.

2108 (B) The order, if issued, shall be removed upon the person's completion of the  
2109 continuing education requirement.

2110 (C) This Subsection (4)(a)(iii) is repealed effective July 1, 2010.

2111 (b) (i) Each citation shall be in writing and describe with particularity the nature of the  
2112 violation, including a reference to the provision of the chapter, rule, or order alleged to have  
2113 been violated.

2114 (ii) The citation shall clearly state that the recipient must notify the division in writing  
2115 within 20 calendar days of service of the citation if the recipient wishes to contest the citation  
2116 at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

2117 (iii) The citation shall clearly explain the consequences of failure to timely contest the  
2118 citation or to make payment of any fines assessed by the citation within the time specified in  
2119 the citation.

2120 (c) Each citation issued under this section, or a copy of each citation, may be served  
2121 upon a person upon whom a summons may be served:

2122 (i) in accordance with the Utah Rules of Civil Procedure;

2123 (ii) personally or upon the person's agent by a division investigator or by a person  
2124 specially designated by the director; or

2125 (iii) by mail.

2126 (d) (i) If within 20 calendar days from the service of a citation, the person to whom the  
2127 citation was issued fails to request a hearing to contest the citation, the citation becomes the  
2128 final order of the division and is not subject to further agency review.

2129 (ii) The period to contest a citation may be extended by the division for cause.

2130 (e) The division may refuse to issue or renew, suspend, revoke, or place on probation  
2131 the license of a licensee who fails to comply with a citation after it becomes final.

2132 (f) The failure of an applicant for licensure to comply with a citation after it becomes  
2133 final is a ground for denial of license.

2134 (g) No citation may be issued under this section after the expiration of six months  
2135 following the occurrence of any violation.

2136 (h) Fines shall be assessed by the director or the director's designee according to the  
2137 following:

2138 (i) for a first offense handled pursuant to Subsection (4)(a), a fine of up to \$1,000;

2139 (ii) for a second offense handled pursuant to Subsection (4)(a), a fine of up to \$2,000;

2140 and

2141 (iii) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to  
2142 \$2,000 for each day of continued offense.

2143 (i) (i) For purposes of issuing a final order under this section and assessing a fine under  
2144 Subsection (4)(~~h~~)(h), an offense constitutes a second or subsequent offense if:

2145 (A) the division previously issued a final order determining that a person committed a  
2146 first or second offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2),  
2147 (3), (9), (10), (12), (14), or (19), or Subsection 58-55-504(2); or

2148 (B) (I) the division initiated an action for a first or second offense;

2149 (II) no final order has been issued by the division in the action initiated under  
2150 Subsection (4)(i)(i)(B)(I);

2151 (III) the division determines during an investigation that occurred after the initiation of  
2152 the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent  
2153 violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9),  
2154 (10), (12), (14), or (19), or Subsection 58-55-504(2); and

2155 (IV) after determining that the person committed a second or subsequent offense under  
2156 Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under  
2157 Subsection (4)(i)(i)(B)(I).

2158 (ii) In issuing a final order for a second or subsequent offense under Subsection  
2159 (4)(i)(i), the division shall comply with the requirements of this section.

2160 (5) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited  
2161 into the Commerce Service ~~[Fund]~~ Account created by Section 13-1-2.

2162 (b) A penalty which is not paid may be collected by the director by either referring the  
2163 matter to a collection agency or bringing an action in the district court of the county in which  
2164 the person against whom the penalty is imposed resides or in the county where the office of the  
2165 director is located.

2166 (c) A county attorney or the attorney general of the state is to provide legal assistance

2167 and advice to the director in any action to collect the penalty.

2168 (d) In an action brought to enforce the provisions of this section, reasonable attorney's  
2169 fees and costs shall be awarded.

2170 Section 46. Section **58-56-9.5** is amended to read:

2171 **58-56-9.5. Penalty for unlawful conduct -- Citations.**

2172 (1) A person who violates a provision of Section 58-56-9.1 or who fails to comply with  
2173 a citation issued under this section after it is final is guilty of a class A misdemeanor.

2174 (2) Grounds for immediate suspension of a licensee's license by the division under this  
2175 chapter include:

2176 (a) the issuance of a citation for violation of a provision of Section 58-56-9.1; and

2177 (b) failure by a licensee to make application to, report to, or notify the division with  
2178 respect to a matter for which application, notification, or reporting is required under this  
2179 chapter or rules made under this chapter by the division.

2180 (3) (a) If upon inspection or investigation, the division concludes that a person has  
2181 violated a provision of Section 58-56-9.1, or a rule or order issued with respect to that section,  
2182 and that disciplinary action is appropriate, the director or the director's designee from within  
2183 the division shall:

2184 (i) promptly issue a citation to the person according to this chapter and any pertinent  
2185 rules;

2186 (ii) attempt to negotiate a stipulated settlement; or

2187 (iii) notify the person to appear before an adjudicative proceeding conducted under  
2188 Title 63G, Chapter 4, Administrative Procedures Act.

2189 (b) (i) A person who violates a provision of Section 58-56-9.1, as evidenced by an  
2190 uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative  
2191 proceeding, may be assessed a fine under this Subsection (3)(b) and may, in addition to or  
2192 instead of the fine, be ordered by the division to cease from violating the provision.

2193 (ii) Except as otherwise provided in Subsection (2)(a), the division may not assess  
2194 licensure sanctions referred to in Subsection 58-56-9(1)(c) through a citation.

2195 (c) (i) Each citation shall be in writing and describe with particularity the nature of the  
2196 violation, including a reference to the provision of the chapter, rule, or order alleged to have  
2197 been violated.

2198 (ii) The citation shall clearly state that the recipient must notify the division in writing  
2199 within 20 calendar days of service of the citation if the recipient wishes to contest the citation  
2200 at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

2201 (iii) The citation shall clearly explain the consequences of failure to timely contest the  
2202 citation or to make payment of any fines assessed by the citation within the time specified in  
2203 the citation.

2204 (d) Each citation issued under this section, or a copy of each citation, may be served  
2205 upon any person upon whom a summons may be served:

2206 (i) in accordance with the Utah Rules of Civil Procedure;

2207 (ii) personally or upon the person's agent by a division investigator or by any person  
2208 specially designated by the director; or

2209 (iii) by mail.

2210 (e) (i) If within 20 calendar days from the service of a citation, the person to whom the  
2211 citation was issued fails to request a hearing to contest the citation, the citation becomes the  
2212 final order of the division and is not subject to further agency review.

2213 (ii) The period to contest a citation may be extended by the division for cause.

2214 (f) The division may refuse to issue or renew, suspend, revoke, or place on probation  
2215 the license of a licensee who fails to comply with a citation after it becomes final.

2216 (g) The failure of an applicant for licensure to comply with a citation after it becomes  
2217 final is a ground for denial of a license.

2218 (h) No citation may be issued under this section after the expiration of six months  
2219 following the occurrence of the violation.

2220 (i) The director or the director's designee may assess fines for violations of Section  
2221 58-56-9.1 as follows:

2222 (i) for a first offense determined under this Subsection (3), a fine of up to \$1,000;

2223 (ii) for a second offense, a fine of up to \$2,000; and

2224 (iii) for any subsequent offense, a fine of up to \$2,000 for each day of continued  
2225 offense.

2226 (j) For the purposes of issuing a final order under this section and assessing a fine  
2227 under Subsection (3)(i), an offense constitutes a second or subsequent offense if:

2228 (i) the division previously issued a final order determining that a person committed a

- 2229 first or second offense in violation of a provision of Section 58-56-9.1; or
- 2230 (ii) (A) the division initiated an action for a first or second offense;
- 2231 (B) no final order has been issued by the division in the action initiated under
- 2232 Subsection (3)(j)(ii)(A);
- 2233 (C) the division determines during an investigation that occurred after the initiation of
- 2234 the action under Subsection (3)(j)(ii)(A) that the person committed a second or subsequent
- 2235 violation of a provision of Section 58-56-9.1; and
- 2236 (D) after determining that the person committed a second or subsequent offense under
- 2237 Subsection (3)(j)(ii)(C), the division issues a final order on the action initiated under
- 2238 Subsection (3)(j)(ii)(A).
- 2239 (k) In issuing a final order for a second or subsequent offense under Subsection (3)(j),
- 2240 the division shall comply with the requirements of this section.
- 2241 (4) (a) Proceeds from a fine imposed under Subsection (3)(i) shall be deposited in the
- 2242 Commerce Service [~~Fund~~] Account created by Section 13-1-2.
- 2243 (b) The director may collect an unpaid fine by:
- 2244 (i) referring the matter to a collection agency; or
- 2245 (ii) bringing an action in the district court of the county in which the person resides or
- 2246 in the county where the director's office is located.
- 2247 (c) (i) The state's attorney general or a county attorney shall provide legal assistance
- 2248 and advice to the director in an action brought under Subsection (4)(b).
- 2249 (ii) Reasonable [~~attorney's~~] attorney fees and costs shall be awarded in an action
- 2250 brought to enforce the provisions of this section.
- 2251 Section 47. Section **58-76-103** is amended to read:
- 2252 **58-76-103. Professional Geologist Education and Enforcement Account.**
- 2253 (1) There is created [~~within the General Fund~~] a restricted account within the General
- 2254 Fund known as the "Professional Geologist Education and Enforcement [~~Fund.~~] Account."
- 2255 (2) The restricted account shall be nonlapsing and consist of [~~monies~~] money from:
- 2256 (a) a surcharge fee established by the department in accordance with Section
- 2257 63J-1-504, placed on initial, renewal, and reinstatement licensure fees under this chapter not to
- 2258 exceed 50% of the respective initial, renewal, or reinstatement licensure fee;
- 2259 (b) administrative penalties collected pursuant to this chapter; and

2260 (c) interest earned on [~~monies~~] money in the account.  
2261 (3) [~~Monies~~] Money in the account may be appropriated by the Legislature for the  
2262 following purposes:

- 2263 (a) education and training of licensees under this chapter;
- 2264 (b) education and training of the public or other interested persons in matters  
2265 concerning geology laws and practices;
- 2266 (c) enforcement of this chapter by:
  - 2267 (i) investigating unprofessional or unlawful conduct;
  - 2268 (ii) providing legal representation to the division when legal action is taken against a  
2269 person engaging in unprofessional or unlawful conduct; and
  - 2270 (iii) monitoring compliance of renewal requirements; and
- 2271 (d) education and training of board members.

2272 Section 48. Section **59-1-210** is amended to read:

2273 **59-1-210. General powers and duties.**

2274 The powers and duties of the commission are as follows:

- 2275 (1) to sue and be sued in its own name;
- 2276 (2) to adopt rules and policies consistent with the Constitution and laws of this state to  
2277 govern the commission, executive director, division directors, and commission employees in  
2278 the performance of their duties;
- 2279 (3) to adopt rules and policies consistent with the Constitution and laws of the state, to  
2280 govern county boards and officers in the performance of any duty relating to assessment,  
2281 equalization, and collection of taxes;
- 2282 (4) to prescribe the use of forms relating to the assessment of property for state or local  
2283 taxation, the equalization of those assessments, the reporting of property or income for state or  
2284 local taxation purposes, or for the computation of those taxes and the reporting of any  
2285 information, statistics, or data required by the commission;
- 2286 (5) to administer and supervise the tax laws of the state;
- 2287 (6) to prepare and maintain from year to year a complete record of all lands subject to  
2288 taxation in this state, and all machinery used in mining and all property or surface  
2289 improvements upon or appurtenant to mines or mining claims;
- 2290 (7) to exercise general supervision over assessors and county boards of equalization

2291 including the authority to enforce Section 59-2-303.1, and over other county officers in the  
2292 performance of their duties relating to the assessment of property and collection of taxes, so  
2293 that all assessments of property are just and equal, according to fair market value, and that the  
2294 tax burden is distributed without favor or discrimination;

2295 (8) to reconvene any county board of equalization which, when reconvened, may only  
2296 address business approved by the commission and extend the time for which any county board  
2297 of equalization may sit for the equalization of assessments;

2298 (9) to confer with, advise, and direct county treasurers, assessors, and other county  
2299 officers in matters relating to the assessment and equalization of property for taxation and the  
2300 collection of taxes;

2301 (10) to provide for and hold annually at such time and place as may be convenient a  
2302 district or state convention of county assessors, auditors, and other county officers to consider  
2303 and discuss matters relative to taxation, uniformity of valuation, and changes in the law relative  
2304 to taxation and methods of assessment, to which county assessors and other officers called to  
2305 attend shall attend at county expense;

2306 (11) to direct proceedings, actions, and prosecutions to enforce the laws relating to the  
2307 penalties, liabilities, and punishments of public officers, persons, and officers or agents of  
2308 corporations for failure or neglect to comply with the statutes governing the reporting,  
2309 assessment, and taxation of property;

2310 (12) to cause complaints to be made in the proper court seeking removal from office of  
2311 assessors, auditors, members of county boards, and other assessing, taxing, or disbursing  
2312 officers, who are guilty of official misconduct or neglect of duty;

2313 (13) to require county attorneys to immediately institute and prosecute actions and  
2314 proceedings in respect to penalties, forfeitures, removals, and punishments for violations of the  
2315 laws relating to the assessment and taxation of property in their respective counties;

2316 (14) to require any person to furnish any information required by the commission to  
2317 ascertain the value and the relative burden borne by all kinds of property in the state, and to  
2318 require from all state and local officers any information necessary for the proper discharge of  
2319 the duties of the commission;

2320 (15) to examine all records relating to the valuation of property of any person;

2321 (16) to subpoena witnesses to appear and give testimony and produce records relating

2322 to any matter before the commission;

2323           (17) to cause depositions of witnesses to be taken as in civil actions at the request of  
2324 the commission or any party to any matter or proceeding before the commission;

2325           (18) to authorize any member or employee of the commission to administer oaths and  
2326 affirmations in any matter or proceeding relating to the exercise of the powers and duties of the  
2327 commission;

2328           (19) to visit periodically each county of the state, to investigate and direct the work and  
2329 methods of local assessors and other officials in the assessment, equalization, and taxation of  
2330 property, and to ascertain whether the law requiring the assessment of all property not exempt  
2331 from taxation, and the collection of taxes, have been properly administered and enforced;

2332           (20) to carefully examine all cases where evasion or violation of the laws for  
2333 assessment and taxation of property is alleged, to ascertain whether existing laws are defective  
2334 or improperly administered;

2335           (21) to furnish to the governor from time to time such assistance and information as the  
2336 governor requires;

2337           (22) to transmit to the governor and to each member of the Legislature  
2338 recommendations as to legislation which will correct or eliminate defects in the operation of  
2339 the tax laws and will equalize the burden of taxation within the state;

2340           (23) to correct any error in any assessment made by it at any time before the tax is due  
2341 and report the correction to the county auditor, who shall enter the corrected assessment upon  
2342 the assessment roll;

2343           (24) to compile and publish statistics relating to taxation in the state and prepare and  
2344 submit an annual budget to the governor for inclusion in the state budget to be submitted to the  
2345 Legislature;

2346           (25) to perform any further duties imposed by law, and exercise all powers necessary in  
2347 the performance of its duties;

2348           (26) to adopt a schedule of fees assessed for services provided by the commission,  
2349 unless otherwise provided by statute. The fee shall be reasonable and fair, and shall reflect the  
2350 cost of services provided. Each fee established in this manner shall be submitted to and  
2351 approved by the Legislature as part of the commission's annual appropriations request. The  
2352 commission may not charge or collect any fee proposed in this manner without approval by the

2353 Legislature;

2354 (27) to comply with the procedures and requirements of Title 63G, Chapter 4,  
2355 Administrative Procedures Act, in its adjudicative proceedings; and

2356 (28) to distribute the monies deposited into the Rural Health Care Facilities [~~Fund~~  
2357 Account] as required by Section 26-9-4.

2358 Section 49. Section **59-7-614.5** is amended to read:

2359 **59-7-614.5. Refundable motion picture tax credit.**

2360 (1) As used in this section:

2361 (a) "Motion picture company" means a taxpayer that meets the definition of a motion  
2362 picture company under [~~Subsection 63M-1-1802(5)] Section 63M-1-1802.~~

2363 (b) "Office" means the Governor's Office of Economic Development.

2364 (c) "State-approved production" has the same meaning as defined in Subsection  
2365 63M-1-1802(10).

2366 (2) For taxable years beginning on or after January 1, 2009, a motion picture company  
2367 may claim a refundable tax credit for a state-approved production.

2368 (3) The tax credit under this section is the amount listed as the tax credit amount on the  
2369 tax credit certificate that the office issues to a motion picture company under Section  
2370 63M-1-1803 for the taxable year.

2371 (4) (a) In accordance with any rules prescribed by the commission under Subsection  
2372 (4)(b), the commission shall make a refund to a motion picture company that claims a tax  
2373 credit under this section if the amount of the tax credit exceeds the motion picture company's  
2374 tax liability for a taxable year.

2375 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2376 commission may make rules providing procedures for making a refund to a motion picture  
2377 company as required by Subsection (4)(a).

2378 (5) (a) On or before October 1, 2014, and every five years after October 1, 2014, the  
2379 Utah Tax Review Commission shall study the tax credit allowed by this section and make  
2380 recommendations to the Revenue and Taxation Interim Committee and the Workforce Services  
2381 and Community and Economic Development Interim Committee concerning whether the tax  
2382 credit should be continued, modified, or repealed.

2383 (b) For purposes of the study required by this Subsection (5), the office shall provide

2384 the following information to the Utah Tax Review Commission:

2385 (i) the amount of tax credit that the office grants to each motion picture company for  
2386 each calendar year;

2387 (ii) the criteria that the office uses in granting the tax credit;

2388 (iii) the dollars left in the state, as defined in Subsection 63M-1-1802(2), by each  
2389 motion picture company for each calendar year;

2390 (iv) the information contained in the office's latest report to the Legislature under  
2391 Section 63M-1-1805; and

2392 (v) any other information requested by the Utah Tax Review Commission.

2393 (c) The Utah Tax Review Commission shall ensure that its recommendations under  
2394 Subsection (5)(a) include an evaluation of:

2395 (i) the cost of the tax credit to the state;

2396 (ii) the effectiveness of the tax credit; and

2397 (iii) the extent to which the state benefits from the tax credit.

2398 Section 50. Section **59-10-1108** is amended to read:

2399 **59-10-1108. Refundable motion picture tax credit.**

2400 (1) As used in this section:

2401 (a) "Motion picture company" means a claimant, estate, or trust that meets the  
2402 definition of a motion picture company under [~~Subsection 63M-1-1802(5)~~] Section  
2403 63M-1-1802.

2404 (b) "Office" means the Governor's Office of Economic Development.

2405 (c) "State-approved production" has the same meaning as defined in Subsection  
2406 63M-1-1802(10).

2407 (2) For taxable years beginning on or after January 1, 2009, a motion picture company  
2408 may claim a refundable tax credit for a state-approved production.

2409 (3) The tax credit under this section is the amount listed as the tax credit amount on the  
2410 tax credit certificate that the office issues to a motion picture company under Section  
2411 63M-1-1803 for the taxable year.

2412 (4) (a) In accordance with any rules prescribed by the commission under Subsection  
2413 (4)(b), the commission shall make a refund to a motion picture company that claims a tax  
2414 credit under this section if the amount of the tax credit exceeds the motion picture company's

2415 tax liability for the taxable year.

2416 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2417 commission may make rules providing procedures for making a refund to a motion picture  
2418 company as required by Subsection (4)(a).

2419 (5) (a) On or before October 1, 2014, and every five years after October 1, 2014, the  
2420 Utah Tax Review Commission shall study the tax credit allowed by this section and make  
2421 recommendations to the Revenue and Taxation Interim Committee and the Workforce Services  
2422 and Community and Economic Development Interim Committee concerning whether the tax  
2423 credit should be continued, modified, or repealed.

2424 (b) For purposes of the study required by this Subsection (5), the office shall provide  
2425 the following information to the Utah Tax Review Commission:

2426 (i) the amount of tax credit the office grants to each taxpayer for each calendar year;

2427 (ii) the criteria the office uses in granting a tax credit;

2428 (iii) the dollars left in the state, as defined in Subsection 63M-1-1802(2), by each  
2429 motion picture company for each calendar year;

2430 (iv) the information contained in the office's latest report to the Legislature under  
2431 Section 63M-1-1805; and

2432 (v) any other information requested by the Utah Tax Review Commission.

2433 (c) The Utah Tax Review Commission shall ensure that its recommendations under  
2434 Subsection (5)(a) include an evaluation of:

2435 (i) the cost of the tax credit to the state;

2436 (ii) the effectiveness of the tax credit; and

2437 (iii) the extent to which the state benefits from the tax credit.

2438 Section 51. Section **59-10-1306** is amended to read:

2439 **59-10-1306. Homeless contribution -- Credit to Pamela Atkinson Homeless**  
2440 **Account.**

2441 (1) Except as provided in Section 59-10-1304, a resident or nonresident individual that  
2442 files an individual income tax return under this chapter may designate on the resident or  
2443 nonresident individual's individual income tax return a contribution to the Pamela Atkinson  
2444 Homeless [Trust] Account as provided in this part.

2445 (2) The commission shall:

2446 (a) determine annually the total amount of contributions designated in accordance with  
2447 this section; and

2448 (b) credit the amount described in Subsection (2)(a) to the Pamela Atkinson Homeless  
2449 [Trust] Account created by Section 9-4-803.

2450 Section 52. Section **59-10-1308** is amended to read:

2451 **59-10-1308. Children's organ transplants contribution -- Credit to Kurt Oscarson**  
2452 **Children's Organ Transplant Account.**

2453 (1) Except as provided in Section 59-10-1304, a resident or nonresident individual that  
2454 files an individual income tax return under this chapter may designate on the resident or  
2455 nonresident individual's individual income tax return a contribution to the Kurt Oscarson  
2456 Children's Organ Transplant [Trust] Account created by Section 26-18a-4.

2457 (2) The commission shall:

2458 (a) determine annually the total amount of contributions designated in accordance with  
2459 this section; and

2460 (b) credit the amount described in Subsection (2)(a) to the Kurt Oscarson Children's  
2461 Organ Transplant [Trust] Account created by Section 26-18a-4.

2462 Section 53. Section **59-21-2** is amended to read:

2463 **59-21-2. Mineral Bonus Account created -- Contents -- Use of Mineral Bonus**  
2464 **Account money -- Mineral Lease Account created -- Contents -- Appropriation of monies**  
2465 **from Mineral Lease Account.**

2466 (1) (a) ~~[The]~~ There is created a restricted account within the General Fund known as  
2467 the "Mineral Bonus Account." ~~[is created within the General Fund.]~~

2468 (b) The Mineral Bonus Account consists of federal mineral lease bonus payments  
2469 deposited pursuant to Subsection 59-21-1(3).

2470 (c) The Legislature shall make appropriations from the Mineral Bonus Account in  
2471 accordance with Section 35 of the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 191.

2472 (d) The state treasurer shall:

2473 (i) invest the money in the Mineral Bonus Account by following the procedures and  
2474 requirements of Title 51, Chapter 7, State Money Management Act; and

2475 (ii) deposit all interest or other earnings derived from the account into the Mineral  
2476 Bonus Account.

2477 (2) (a) ~~[The]~~There is created a restricted account within the General Fund known as the  
2478 " Mineral Lease Account." ~~[is created within the General Fund.]~~

2479 (b) The Mineral Lease Account consists of federal mineral lease money deposited  
2480 pursuant to Subsection 59-21-1(1).

2481 (c) The Legislature shall make appropriations from the Mineral Lease Account as  
2482 provided in Subsection 59-21-1(1) and this Subsection (2).

2483 (d) The Legislature shall annually appropriate 32.5% of all deposits made to the  
2484 Mineral Lease Account to the Permanent Community Impact Fund established by Section  
2485 9-4-303.

2486 (e) The Legislature shall annually appropriate 2.25% of all deposits made to the  
2487 Mineral Lease Account to the State Board of Education, to be used for education research and  
2488 experimentation in the use of staff and facilities designed to improve the quality of education in  
2489 Utah.

2490 (f) The Legislature shall annually appropriate 2.25% of all deposits made to the  
2491 Mineral Lease Account to the Utah Geological Survey, to be used for activities carried on by  
2492 the survey having as a purpose the development and exploitation of natural resources in the  
2493 state.

2494 (g) The Legislature shall annually appropriate 2.25% of all deposits made to the  
2495 Mineral Lease Account to the Water Research Laboratory at Utah State University, to be used  
2496 for activities carried on by the laboratory having as a purpose the development and exploitation  
2497 of water resources in the state.

2498 (h) (i) The Legislature shall annually appropriate to the Department of Transportation  
2499 40% of all deposits made to the Mineral Lease Account to be distributed as provided in  
2500 Subsection (2)(h)(ii) to:

2501 (A) counties;

2502 (B) special service districts established:

2503 (I) by counties;

2504 (II) under Title 17D, Chapter 1, Special Service District Act; and

2505 (III) for the purpose of constructing, repairing, or maintaining roads; or

2506 (C) special service districts established:

2507 (I) by counties;

2508 (II) under Title 17D, Chapter 1, Special Service District Act; and  
2509 (III) for other purposes authorized by statute.  
2510 (ii) The Department of Transportation shall allocate the funds specified in Subsection  
2511 (2)(h)(i):  
2512 (A) in amounts proportionate to the amount of mineral lease money generated by each  
2513 county; and  
2514 (B) to a county or special service district established by a county under Title 17D,  
2515 Chapter 1, Special Service District Act, as determined by the county legislative body.  
2516 (i) (i) The Legislature shall annually appropriate 5% of all deposits made to the  
2517 Mineral Lease Account to the Department of Community and Culture to be distributed to:  
2518 (A) special service districts established:  
2519 (I) by counties;  
2520 (II) under Title 17D, Chapter 1, Special Service District Act; and  
2521 (III) for the purpose of constructing, repairing, or maintaining roads; or  
2522 (B) special service districts established:  
2523 (I) by counties;  
2524 (II) under Title 17D, Chapter 1, Special Service District Act; and  
2525 (III) for other purposes authorized by statute.  
2526 (ii) The Department of Community and Culture may distribute the amounts described  
2527 in Subsection (2)(i)(i) only to special service districts established under Title 17D, Chapter 1,  
2528 Special Service District Act, by counties:  
2529 (A) of the third, fourth, fifth, or sixth class;  
2530 (B) in which 4.5% or less of the mineral lease moneys within the state are generated;  
2531 and  
2532 (C) that are significantly socially or economically impacted as provided in Subsection  
2533 [~~(2)~~] (2)(i)(iii) by the development of minerals under the Mineral Lands Leasing Act, 30 U.S.C.  
2534 Sec. 181 et seq.  
2535 (iii) The significant social or economic impact required under Subsection (2)(i)(ii)(C)  
2536 shall be as a result of:  
2537 (A) the transportation within the county of hydrocarbons, including solid hydrocarbons  
2538 as defined in Section 59-5-101;

2539 (B) the employment of persons residing within the county in hydrocarbon extraction,  
2540 including the extraction of solid hydrocarbons as defined in Section 59-5-101; or

2541 (C) a combination of Subsections (2)(i)(iii)(A) and (B).

2542 (iv) For purposes of distributing the appropriations under this Subsection (2)(i) to  
2543 special service districts established by counties under Title 17D, Chapter 1, Special Service  
2544 District Act, the Department of Community and Culture shall:

2545 (A) (I) allocate 50% of the appropriations equally among the counties meeting the  
2546 requirements of Subsections (2)(i)(ii) and (iii); and

2547 (II) allocate 50% of the appropriations based on the ratio that the population of each  
2548 county meeting the requirements of Subsections (2)(i)(ii) and (iii) bears to the total population  
2549 of all of the counties meeting the requirements of Subsections (2)(i)(ii) and (iii); and

2550 (B) after making the allocations described in Subsection (2)(i)(iv)(A), distribute the  
2551 allocated revenues to special service districts established by the counties under Title 17D,  
2552 Chapter 1, Special Service District Act, as determined by the executive director of the  
2553 Department of Community and Culture after consulting with the county legislative bodies of  
2554 the counties meeting the requirements of Subsections (2)(i)(ii) and (iii).

2555 (v) The executive director of the Department of Community and Culture:

2556 (A) shall determine whether a county meets the requirements of Subsections (2)(i)(ii)  
2557 and (iii);

2558 (B) shall distribute the appropriations under Subsection (2)(i)(i) to special service  
2559 districts established by counties under Title 17D, Chapter 1, Special Service District Act, that  
2560 meet the requirements of Subsections (2)(i)(ii) and (iii); and

2561 (C) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
2562 may make rules:

2563 (I) providing a procedure for making the distributions under this Subsection (2)(i) to  
2564 special service districts; and

2565 (II) defining the term "population" for purposes of Subsection (2)(i)(iv).

2566 (j) (i) The Legislature shall annually make the following appropriations from the  
2567 Mineral Lease Account:

2568 (A) an amount equal to 52 cents multiplied by the number of acres of school or  
2569 institutional trust lands, lands owned by the Division of Parks and Recreation, and lands owned

2570 by the Division of Wildlife Resources that are not under an in lieu of taxes contract, to each  
2571 county in which those lands are located;

2572 (B) to each county in which school or institutional trust lands are transferred to the  
2573 federal government after December 31, 1992, an amount equal to the number of transferred  
2574 acres in the county multiplied by a payment per acre equal to the difference between 52 cents  
2575 per acre and the per acre payment made to that county in the most recent payment under the  
2576 federal payment in lieu of taxes program, 31 U.S.C. Sec. 6901 et seq., unless the federal  
2577 payment was equal to or exceeded the 52 cents per acre, in which case a payment under this  
2578 Subsection (2)(j)(i)(B) may not be made for the transferred lands;

2579 (C) to each county in which federal lands, which are entitlement lands under the federal  
2580 in lieu of taxes program, are transferred to the school or institutional trust, an amount equal to  
2581 the number of transferred acres in the county multiplied by a payment per acre equal to the  
2582 difference between the most recent per acre payment made under the federal payment in lieu of  
2583 taxes program and 52 cents per acre, unless the federal payment was equal to or less than 52  
2584 cents per acre, in which case a payment under this Subsection (2)(j)(i)(C) may not be made for  
2585 the transferred land; and

2586 (D) to a county of the fifth or sixth class, an amount equal to the product of:

2587 (I) \$1,000; and

2588 (II) the number of residences described in Subsection (2)(j)(iv) that are located within  
2589 the county.

2590 (ii) A county receiving money under Subsection (2)(j)(i) may, as determined by the  
2591 county legislative body, distribute the money or a portion of the money to:

2592 (A) special service districts established by the county under Title 17D, Chapter 1,  
2593 Special Service District Act;

2594 (B) school districts; or

2595 (C) public institutions of higher education.

2596 (iii) (A) Beginning in fiscal year 1994-95 and in each year after fiscal year 1994-95, the  
2597 Division of Finance shall increase or decrease the amounts per acre provided for in Subsections  
2598 (2)(j)(i)(A) through (C) by the average annual change in the Consumer Price Index for all urban  
2599 consumers published by the Department of Labor.

2600 (B) For fiscal years beginning on or after fiscal year 2001-02, the Division of Finance

2601 shall increase or decrease the amount described in Subsection (2)(j)(i)(D)(I) by the average  
2602 annual change in the Consumer Price Index for all urban consumers published by the  
2603 Department of Labor.

2604 (iv) Residences for purposes of Subsection (2)(j)(i)(D)(II) are residences that are:

2605 (A) owned by:

2606 (I) the Division of Parks and Recreation; or

2607 (II) the Division of Wildlife Resources;

2608 (B) located on lands that are owned by:

2609 (I) the Division of Parks and Recreation; or

2610 (II) the Division of Wildlife Resources; and

2611 (C) are not subject to taxation under:

2612 (I) Chapter 2, Property Tax Act; or

2613 (II) Chapter 4, Privilege Tax.

2614 (k) The Legislature shall annually appropriate to the Permanent Community Impact  
2615 Fund all deposits remaining in the Mineral Lease Account after making the appropriations  
2616 provided for in Subsections (2)(d) through (j).

2617 (3) (a) Each agency, board, institution of higher education, and political subdivision  
2618 receiving money under this chapter shall provide the Legislature, through the Office of the  
2619 Legislative Fiscal Analyst, with a complete accounting of the use of that money on an annual  
2620 basis.

2621 (b) The accounting required under Subsection (3)(a) shall:

2622 (i) include actual expenditures for the prior fiscal year, budgeted expenditures for the  
2623 current fiscal year, and planned expenditures for the following fiscal year; and

2624 (ii) be reviewed by the Economic Development and Human Resources Appropriation  
2625 Subcommittee as part of its normal budgetary process under Title 63J, Chapter 1, Budgetary  
2626 Procedures Act.

2627 Section 54. Section **62A-4a-309** is amended to read:

2628 **62A-4a-309. Children's Account.**

2629 (1) There ~~[shall be]~~ is created a restricted account within the General Fund ~~[to be]~~  
2630 known as the "Children's [Trust Account. This] Account." The restricted account is for  
2631 crediting of contributions from private sources and from appropriate revenues received under

2632 Section 26-2-12.5 for abuse and neglect prevention programs described in Section 62A-4a-305.

2633 (2) Money shall be appropriated from the account to the division by the Legislature  
2634 under the Utah Budgetary Procedures Act, and shall be drawn upon by the director in  
2635 consultation with the executive director of the department.

2636 (3) Except as provided in Subsection (4), the Children's [~~Trust~~] Account may be used  
2637 only to implement prevention programs described in Section 62A-4a-305, and may only be  
2638 allocated to [~~entities~~] an entity that [~~provide~~] provides a one-to-one match, comprising a match  
2639 from the community of at least 50% in cash and up to 50% in in-kind donations, which is 25%  
2640 of the total funding received from the Children's [~~Trust~~] Account.

2641 (4) (a) The entity that receives the statewide evaluation contract is excepted from the  
2642 cash-match provisions of Subsection (3).

2643 (b) Upon recommendation of the executive director and the council, the division may  
2644 reduce or waive the match requirements described in Subsection (3) for an entity, if the  
2645 division determines that imposing the requirements would prohibit or limit the provision of  
2646 services needed in a particular geographic area.

2647 Section 55. Section **62A-4a-310** is amended to read:

2648 **62A-4a-310. Funds -- Transfers and gifts.**

2649 On behalf of the Children's [~~Trust~~] Account, the department, through the division, may  
2650 accept transfers, grants, gifts, bequests, or any money made available from any source to  
2651 implement this part.

2652 Section 56. Section **62A-4a-311** is amended to read:

2653 **62A-4a-311. Child Abuse Advisory Council -- Creation -- Membership --**  
2654 **Expenses.**

2655 (1) (a) There is established the Child Abuse Advisory Council composed of no more  
2656 than 25 members who are appointed by the division.

2657 (b) Except as required by Subsection (1)(c), as terms of current council members  
2658 expire, the division shall appoint each new member or reappointed member to a four-year term.

2659 (c) Notwithstanding the requirements of Subsection (1)(b), the division shall, at the  
2660 time of appointment or reappointment, adjust the length of terms to ensure that the terms of  
2661 council members are staggered so that approximately half of the council is appointed every two  
2662 years.

2663 (d) The council shall have geographic, economic, gender, cultural, and philosophical  
2664 diversity.

2665 (e) When a vacancy occurs in the membership for any reason, the replacement shall be  
2666 appointed for the unexpired term.

2667 (2) The council shall elect a chairperson from its membership at least biannually.

2668 (3) (a) A member of the council who is not a government employee shall receive no  
2669 compensation or benefits for the member's services, but may:

2670 (i) receive per diem and expenses incurred in the performance of the member's official  
2671 duties at the rates established by the Division of Finance under Sections 63A-3-106 and  
2672 63A-3-107; or

2673 (ii) decline to receive per diem and expenses for the member's service.

2674 (b) A member of the council who is a state government officer or employee and who  
2675 does not receive salary, per diem, or expenses from the member's agency for the member's  
2676 service may:

2677 (i) receive per diem and expenses incurred in the performance of the member's official  
2678 duties from the commission at the rates established by the Division of Finance under Sections  
2679 63A-3-106 and 63A-3-107; or

2680 (ii) decline to receive per diem and expenses for the member's service.

2681 (4) The council shall hold a public meeting quarterly. Within budgetary constraints,  
2682 meetings may also be held on the call of the chair, or of a majority of the members. A majority  
2683 of the members currently appointed to the council constitute a quorum at any meeting and the  
2684 action of the majority of the members present shall be the action of the council.

2685 (5) The council shall:

2686 (a) advise the division on matters relating to abuse and neglect; and

2687 (b) recommend to the division how funds contained in the Children's ~~Trust~~ Account  
2688 should be allocated.

2689 Section 57. Section **62A-15-502.5** is enacted to read:

2690 **62A-15-502.5. Intoxicated Driver Account -- Created.**

2691 (1) There is created a restricted account within the General Fund known as the  
2692 "Intoxicated Driver Rehabilitation Account."

2693 (2) The restricted account created in Subsection (1) consists of assessments as provided

2694 for in Section 62A-15-503.

2695 (3) Upon appropriations from the Legislature, money from the account created in  
2696 Subsection (1) shall be used as prescribed in Section 62A-15-503.

2697 Section 58. Section **62A-15-503** is amended to read:

2698 **62A-15-503. Assessments for DUI -- Use of money for rehabilitation programs,**  
2699 **including victim impact panels -- Rulemaking power granted.**

2700 (1) Assessments imposed under Section 62A-15-502 may, pursuant to court order,  
2701 either:

2702 (a) be collected by the clerk of the court in which the person was convicted; or

2703 (b) be paid directly to the licensed alcohol or drug treatment program. Those

2704 assessments collected by the court shall either be:

2705 (i) forwarded to the state treasurer for credit to [~~a special account in the General Fund,~~  
2706 ~~designated as~~] the ["<sup>u</sup>Intoxicated Driver Rehabilitation Account["<sup>u</sup>] created by Section  
2707 62A-15-502.5; or

2708 (ii) forwarded to a special nonlapsing account created by the county treasurer of the  
2709 county in which the fee is collected.

2710 (2) Proceeds of the accounts described in Subsection (1) shall be used exclusively for  
2711 the operation of licensed alcohol or drug rehabilitation programs and education, assessment,  
2712 supervision, and other activities related to and supporting the rehabilitation of persons  
2713 convicted of driving while under the influence of intoxicating liquor or drugs. A requirement  
2714 of the rehabilitation program shall be participation with a victim impact panel or program  
2715 providing a forum for victims of alcohol or drug related offenses and defendants to share  
2716 experiences on the impact of alcohol or drug related incidents in their lives. The Division of  
2717 Substance Abuse and Mental Health shall establish guidelines to implement victim impact  
2718 panels where, in the judgment of the licensed alcohol or drug program, appropriate victims are  
2719 available, and shall establish guidelines for other programs where such victims are not  
2720 available.

2721 (3) None of the assessments shall be maintained for administrative costs by the  
2722 division.

2723 Section 59. Section **63A-5-220** is amended to read:

2724 **63A-5-220. Definitions -- Creation of Account for People with Disabilities -- Use**

2725 **of restricted account.**

2726 (1) As used in this section:

2727 (a) "Developmental center" means the Utah State Developmental Center described in  
2728 Section 62A-5-201.

2729 (b) "DSPD" means the Division of Services for People with Disabilities within the  
2730 Department of Human Services.

2731 [~~(c)~~ "Fund" means the Trust Fund for People with Disabilities created by this section.]

2732 [~~(d)~~] (c) "Long-term lease" means:

2733 (i) a lease with a term of five years or more; or

2734 (ii) a lease with a term of less than five years that may be unilaterally renewed by the  
2735 lessee.

2736 (2) Notwithstanding the provisions of Section 63A-5-215, any [~~monies~~] money  
2737 received by the division or DSPD from the sale, lease, except any lease existing on May 1,  
2738 1995, or other disposition of real property associated with the developmental center shall be  
2739 deposited in the [~~fund~~] restricted account created in Subsection (3).

2740 (3) (a) There is created a restricted account within the General Fund [~~entitled the "Trust~~  
2741 ~~Fund~~] known as the "Account for People with Disabilities."

2742 (b) The Division of Finance shall deposit the following revenues into the [~~fund~~]  
2743 restricted account:

2744 (i) revenue from the sale, lease, except any lease existing on May 1, 1995, or other  
2745 disposition of real property associated with the developmental center;

2746 (ii) revenue from the sale, lease, or other disposition of water rights associated with the  
2747 developmental center; and

2748 (iii) revenue from voluntary contributions made to the [~~fund~~] restricted account.

2749 (c) The state treasurer shall invest [~~monies contained~~] money in the fund according to  
2750 the procedures and requirements of Title 51, Chapter 7, State Money Management Act, and all  
2751 interest shall remain with the [~~fund~~] restricted account.

2752 (d) (i) Except as provided in Subsection (3)(d)(ii), no expenditure or appropriation may  
2753 be made from the [~~fund~~] restricted account.

2754 (ii) (A) The Legislature may appropriate interest earned on [~~fund monies~~] restricted  
2755 account money invested pursuant to this Subsection (3)(d), leases from real property and

2756 improvements, leases from water, rents, and fees to DSPD for programs described in Title 62A,  
2757 Chapter 5, Services to People with Disabilities.

2758 (B) [~~Fund monies~~] Restricted account money appropriated each year under Subsection  
2759 (3)(d)(ii)(A) may not be expended unless approved by the director of the Division of Services  
2760 for People with Disabilities within the Department of Human Services in consultation with the  
2761 executive director of the department.

2762 (4) (a) Notwithstanding the provisions of Section 65A-4-1, any sale or disposition of  
2763 real property or water rights associated with the developmental center shall be conducted as  
2764 provided in this Subsection (4).

2765 (b) The division shall secure the concurrence of DSPD and the approval of the  
2766 governor before making the sale or other disposition of land or water rights.

2767 (c) In addition to the concurrences required by Subsection (4)(b), the division shall  
2768 secure the approval of the Legislature before offering the land or water rights for sale,  
2769 exchange, or long-term lease.

2770 (d) The division shall sell or otherwise dispose of the land or water rights as directed  
2771 by the governor.

2772 (e) The division may not sell, exchange, or enter into a long-term lease of the land or  
2773 water rights for a price or estimated value below the average of two appraisals conducted by an  
2774 appraiser who holds an appraiser's certificate or license issued by the Division of Real Estate  
2775 under Title 61, Chapter 2b, Real Estate Appraiser Licensing and Certification Act.

2776 Section 60. Section **63B-10-401** is amended to read:

2777 **63B-10-401. Other capital facility authorizations and intent language.**

2778 (1) It is the intent of the Legislature that:

2779 (a) Utah State University use institutional funds to plan, design, and construct an  
2780 expansion of the HPER Building under the direction of the director of the Division of Facilities  
2781 Construction and Management unless supervisory authority has been delegated;

2782 (b) no state funds be used for any portion of this project; and

2783 (c) the university may request state funds for operations and maintenance to the extent  
2784 that the university is able to demonstrate to the Board of Regents that the facility meets  
2785 approved academic and training purposes under Board of Regents policy R710.

2786 (2) It is the intent of the Legislature that:

- 2787 (a) the University of Utah use institutional funds to plan, design, and construct the  
2788 Moran Eye Center II project under the direction of the director of the Division of Facilities  
2789 Construction and Management unless supervisory authority has been delegated;
- 2790 (b) no state funds be used for any portion of this project; and
- 2791 (c) the university may request state funds for operations and maintenance to the extent  
2792 that the university is able to demonstrate to the Board of Regents that the facility meets  
2793 approved academic and training purposes under Board of Regents policy R710.
- 2794 (3) It is the intent of the Legislature that:
- 2795 (a) the University of Utah use institutional funds to plan, design, and construct the E.  
2796 E. Jones Medical Science Addition under the direction of the director of the Division of  
2797 Facilities Construction and Management unless supervisory authority has been delegated;
- 2798 (b) no state funds be used for any portion of this project; and
- 2799 (c) the university may request state funds for operations and maintenance to the extent  
2800 that the university is able to demonstrate to the Board of Regents that the facility meets  
2801 approved academic and training purposes under Board of Regents policy R710.
- 2802 (4) It is the intent of the Legislature that:
- 2803 (a) the University of Utah use institutional funds to plan, design, and construct a  
2804 Museum of Natural History under the direction of the director of the Division of Facilities  
2805 Construction and Management unless supervisory authority has been delegated;
- 2806 (b) no state funds be used for any portion of this project; and
- 2807 (c) the university may request state funds for operations and maintenance to the extent  
2808 that the university is able to demonstrate to the Board of Regents that the facility meets  
2809 approved academic and training purposes under Board of Regents policy R710.
- 2810 (5) It is the intent of the Legislature that:
- 2811 (a) Dixie College use institutional funds to plan, design, and construct the Hurricane  
2812 Education Center under the direction of the director of the Division of Facilities Construction  
2813 and Management unless supervisory authority has been delegated;
- 2814 (b) no state funds be used for any portion of this project; and
- 2815 (c) the college may request state funds for operations and maintenance to the extent  
2816 that the university is able to demonstrate to the Board of Regents that the facility meets  
2817 approved academic and training purposes under Board of Regents policy R710.

2818 (6) It is the intent of the Legislature that:

2819 (a) Southern Utah University use institutional funds to plan, design, and construct the  
2820 Shakespearean Festival Center under the direction of the director of the Division of Facilities  
2821 Construction and Management unless supervisory authority has been delegated;

2822 (b) no state funds be used for any portion of this project; and

2823 (c) the college may not request state funds for operations and maintenance.

2824 (7) It is the intent of the Legislature that:

2825 (a) the Department of Corrections use donations to plan, design, and construct the  
2826 Wasatch Family History Center under the direction of the director of the Division of Facilities  
2827 Construction and Management unless supervisory authority has been delegated;

2828 (b) no state funds be used for any portion of this project; and

2829 (c) the department may request state funds for operations and maintenance.

2830 (8) It is the intent of the Legislature that:

2831 (a) the Department of Workforce Services use \$1,186,700 from its Special  
2832 Administrative Expense ~~[Fund]~~ Account created in Section 35A-4-506 to plan, design, and  
2833 construct an addition to the Cedar City Employment Center under the direction of the director  
2834 of the Division of Facilities Construction and Management unless supervisory authority has  
2835 been delegated; and

2836 (b) the department may request state funds for operations and maintenance.

2837 (9) It is the intent of the Legislature that the Division of Facilities Construction and  
2838 Management, acting on behalf of the Department of Natural Resources, may enter into a lease  
2839 purchase agreement with Carbon County to provide needed space for agency programs in the  
2840 area if the Department of Natural Resources obtains the approval of the State Building Board  
2841 by demonstrating that the lease purchase will be a benefit to the state and that the lease,  
2842 including operation and maintenance costs, can be funded within existing agency budgets.

2843 Section 61. Section **63J-1-104** is amended to read:

2844 **63J-1-104. Revenue types -- Disposition of funds collected or credited by a state**  
2845 **agency.**

2846 (1) (a) The Division of Finance shall:

2847 (i) account for revenues in accordance with generally accepted accounting principles;

2848 and

- 2849 (ii) use the major revenue types in internal accounting.
- 2850 (b) Each agency shall:
- 2851 (i) use the major revenue types to account for revenues;
- 2852 (ii) deposit revenues and other public funds received by them by following the
- 2853 procedures and requirements of Title 51, Chapter 7, State Money Management Act; and
- 2854 (iii) expend revenues and public funds as required by this chapter.
- 2855 (2) (a) Each agency shall deposit its free revenues into the appropriate fund.
- 2856 (b) An agency may expend free revenues up to the amount specifically appropriated by
- 2857 the Legislature.
- 2858 (c) Any free revenue funds appropriated by the Legislature to an agency that remain
- 2859 unexpended at the end of the fiscal year lapse to the source fund unless the Legislature provides
- 2860 by law that those funds are nonlapsing.
- 2861 (3) (a) Each agency shall deposit its restricted revenues into ~~[a]~~ the applicable restricted
- 2862 account or fund.
- 2863 (b) Revenues in a restricted account or fund do not lapse to another account or fund
- 2864 unless otherwise specifically provided for by law or legislative appropriation.
- 2865 ~~[(b)]~~ (c) The Legislature may appropriate restricted revenues from a restricted account
- 2866 or fund for the specific purpose or program designated by law.
- 2867 ~~[(c)]~~ (d) If the fund equity of a restricted account or fund is insufficient to provide the
- 2868 ~~[funds]~~ accounts appropriated from it by the Legislature, the Division of Finance may reduce
- 2869 the appropriation to a level that ensures that the fund equity is not less than zero.
- 2870 ~~[(d)]~~ (e) Any restricted ~~[revenue funds]~~ revenues appropriated by the Legislature to an
- 2871 agency that remain unexpended at the end of the fiscal year lapse to the applicable restricted
- 2872 account or fund unless the Legislature provides by law that those ~~[funds]~~ appropriations, or the
- 2873 program or line item financed by those ~~[funds]~~ appropriations, are nonlapsing.
- 2874 (4) (a) An agency may expend dedicated credits for any purpose within the program or
- 2875 line item.
- 2876 (b) (i) Except as provided in Subsection (4)(b)(ii), an agency may not expend dedicated
- 2877 credits in excess of the amount appropriated as dedicated credits by the Legislature.
- 2878 (ii) In order to expend dedicated credits in excess of the amount appropriated as
- 2879 dedicated credits by the Legislature, the following procedure shall be followed:

- 2880 (A) The agency seeking to make the excess expenditure shall:
- 2881 (I) develop a new work program that:
- 2882 (Aa) consists of the currently approved work program and the excess expenditure
- 2883 sought to be made; and
- 2884 (Bb) complies with the requirements of Section 63J-2-202;
- 2885 (II) prepare a written justification for the new work program that sets forth the purpose
- 2886 and necessity of the excess expenditure; and
- 2887 (III) submit the new work program and the written justification for the new work
- 2888 program to the Division of Finance.
- 2889 (B) The Division of Finance shall process the new work program with written
- 2890 justification and make this information available to the Governor's Office of Planning and
- 2891 Budget and the legislative fiscal analyst.
- 2892 (iii) An expenditure of dedicated credits in excess of amounts appropriated as
- 2893 dedicated credits by the Legislature may not be used to permanently increase personnel within
- 2894 the agency unless:
- 2895 (A) the increase is approved by the Legislature; or
- 2896 (B) the monies are deposited as dedicated credits in:
- 2897 (I) the Drug Stamp Tax Fund under Section 59-19-105; or
- 2898 (II) a line item covering tuition or federal vocational funds at an institution of higher
- 2899 education.
- 2900 (c) (i) All excess dedicated credits lapse to the appropriate fund at the end of the fiscal
- 2901 year unless the Legislature has designated the entire program or line item that is partially or
- 2902 fully funded from dedicated credits as nonlapsing.
- 2903 (ii) The Division of Finance shall determine the appropriate fund into which the
- 2904 dedicated credits lapse.
- 2905 (5) (a) The Legislature may establish by law the maximum amount of fixed collections
- 2906 that an agency may expend.
- 2907 (b) If an agency receives less than the maximum amount of expendable fixed
- 2908 collections established by law, the agency's authority to expend is limited to the amount of
- 2909 fixed collections that it receives.
- 2910 (c) If an agency receives fixed collections greater than the maximum amount of

2911 expendable fixed collections established by law, those excess amounts lapse to the General  
 2912 Fund, the Education Fund, [~~the Uniform School Fund, or~~] the Transportation Fund, or the  
 2913 Transportation Investment Fund of 2005 as designated by the director of the Division of  
 2914 Finance at the end of the fiscal year.

2915 (6) Unless otherwise specifically provided by law, when an agency has a program or  
 2916 line item that is funded by more than one major revenue type:

2917 (a) the agency shall expend its dedicated credits and fixed collections first; and

2918 (b) if the program or line item includes both free revenue and restricted revenue, an  
 2919 agency shall expend those revenues based upon a proration of the amounts appropriated from  
 2920 each of those major revenue types.

2921 Section 62. Section **63J-1-602** is amended to read:

2922 **63J-1-602. Nonlapsing accounts and funds.**

2923 (1) The following revenue collections, appropriations from a fund or account, and  
 2924 appropriations to a program are nonlapsing:

2925 (a) appropriations made to the Legislature and its committees;

2926 (b) funds collected by the grain grading program, as provided in Section 4-2-2;

2927 (c) the Salinity Offset Fund created in Section 4-2-8.5;

2928 (d) the Invasive Species Mitigation [~~Fund~~] Account created in Section 4-2-8.7;

2929 (e) funds collected by pesticide dealer license registration fees, as provided in Section  
 2930 4-14-3;

2931 (f) funds collected by pesticide applicator business registration fees, as provided in  
 2932 Section 4-14-13;

2933 (g) the Rangeland Improvement [~~Fund~~] Account created in Section 4-20-2;

2934 (h) funds deposited as dedicated credits under the Insect Infestation Emergency Control  
 2935 Act, as provided in Section 4-35-6;

2936 (i) the Percent-for-Art Program created in Section 9-6-404;

2937 (j) the Centennial History Fund created in Section 9-8-604;

2938 (k) the Uintah Basin Revitalization Fund, as provided in Section 9-10-108;

2939 (l) the Navajo Revitalization Fund created in Section 9-11-104;

2940 (m) the LeRay McAllister Critical Land Conservation Program created in Section  
 2941 11-38-301;

- 2942 (n) the Clean Fuels and Vehicle Technology Fund created in Section 19-1-403;
- 2943 (o) fees deposited as dedicated credits for hazardous waste plan reviews, as provided in
- 2944 Section 19-6-120;
- 2945 (p) an appropriation made to the Division of Wildlife Resources for the appraisal and
- 2946 purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6;
- 2947 (q) award monies under the Crime Reduction Assistance Program, as provided under
- 2948 Section 24-1-19;
- 2949 (r) funds collected from the emergency medical services grant program, as provided in
- 2950 Section 26-8a-207;
- 2951 (s) fees and other funding available to purchase training equipment and to administer
- 2952 tests and conduct quality assurance reviews, as provided in Section 26-8a-208;
- 2953 (t) funds collected as a result of a sanction under Section 1919 of Title XIX of the
- 2954 federal Social Security Act, as provided in Section 26-18-3;
- 2955 (u) the Utah Health Care Workforce Financial Assistance Program created in Section
- 2956 26-46-102;
- 2957 (v) monies collected from subscription fees for publications prepared or distributed by
- 2958 the insurance commissioner, as provided in Section 31A-2-208;
- 2959 (w) monies received by the Insurance Department for administering, investigating
- 2960 under, and enforcing the Insurance Fraud Act, as provided in Section 31A-31-108;
- 2961 (x) certain monies received for penalties paid under the Insurance Fraud Act, as
- 2962 provided in Section 31A-31-109;
- 2963 (y) the fund for operating the state's Federal Health Care Tax Credit Program, as
- 2964 provided in Section 31A-38-104;
- 2965 (z) certain funds in the Department of Workforce Services' program for the education,
- 2966 training, and transitional counseling of displaced homemakers, as provided in Section
- 2967 35A-3-114;
- 2968 (aa) the Employment Security Administration [~~Fund~~] Account created in Section
- 2969 35A-4-505;
- 2970 (bb) the Special Administrative Expense [~~Fund~~] Account created in Section
- 2971 35A-4-506;
- 2972 (cc) funding for a new program or agency that is designated as nonlapsing under

2973 Section 36-24-101;

2974 (dd) the Oil and Gas Conservation Account created in Section 40-6-14.5;

2975 (ee) funds available to the State Tax Commission for purchase and distribution of

2976 license plates and decals, as provided in Section 41-1a-1201;

2977 (ff) certain fees for the cost of electronic payments under the Motor Vehicle Act, as

2978 provided in Section 41-1a-1221;

2979 (gg) certain fees collected for administering and enforcing the Motor Vehicle Business

2980 Regulation Act, as provided in Section 41-3-601;

2981 (hh) certain fees for the cost of electronic payments under the Motor Vehicle Business

2982 Regulation Act, as provided in Section 41-3-604;

2983 (ii) the Off-Highway Access and Education Restricted Account created in Section

2984 41-22-19.5;

2985 (jj) certain fees for the cost of electronic payments under the Motor Vehicle Act, as

2986 provided in Section 41-22-36;

2987 (kk) monies collected under the Notaries Public Reform Act, as provided under

2988 46-1-23;

2989 (ll) certain funds associated with the Law Enforcement Operations Account, as

2990 provided in Section 51-9-411;

2991 (mm) the Public Safety Honoring Heroes Restricted Account created in Section

2992 53-1-118;

2993 (nn) funding for the Search and Rescue Financial Assistance Program, as provided in

2994 Section 53-2-107;

2995 (oo) appropriations made to the Department of Public Safety from the Department of

2996 Public Safety Restricted Account, as provided in Section 53-3-106;

2997 (pp) appropriations to the Motorcycle Rider Education Program, as provided in Section

2998 53-3-905;

2999 (qq) fees collected by the State Fire Marshal Division under the Utah Fire Prevention

3000 and Safety Act, as provided in Section 53-7-314;

3001 (rr) the DNA Specimen Restricted Account created in Section 53-10-407;

3002 (ss) the minimum school program, as provided in Section 53A-17a-105;

3003 (tt) certain funds appropriated from the Uniform School Fund to the State Board of

3004 Education for new teacher bonus and performance-based compensation plans, as provided in  
3005 Section 53A-17a-148;

3006 (uu) certain funds appropriated from the Uniform School Fund to the State Board of  
3007 Education for implementation of proposals to improve mathematics achievement test scores, as  
3008 provided in Section 53A-17a-152;

3009 (vv) the School Building Revolving Account created in Section 53A-21-401;

3010 (ww) monies received by the State Office of Rehabilitation for the sale of certain  
3011 products or services, as provided in Section 53A-24-105;

3012 (xx) the State Board of Regents, as provided in Section 53B-6-104;

3013 (yy) certain funds appropriated from the General Fund to the State Board of Regents  
3014 for teacher preparation programs, as provided in Section 53B-6-104;

3015 (zz) a certain portion of monies collected for administrative costs under the School  
3016 Institutional Trust Lands Management Act, as provided under Section 53C-3-202;

3017 (aaa) certain surcharges on residence and business telecommunications access lines  
3018 imposed by the Public Service Commission, as provided in Section 54-8b-10;

3019 (bbb) certain fines collected by the Division of Occupational and Professional  
3020 Licensing for violation of unlawful or unprofessional conduct that are used for education and  
3021 enforcement purposes, as provided in Section 58-17b-505;

3022 (ccc) the Nurse Education and Enforcement [~~Fund~~] Account created in Section  
3023 58-31b-103;

3024 (ddd) funding of the controlled substance database, as provided in Section 58-37-7.7;

3025 (eee) the Certified Nurse Midwife Education and Enforcement [~~Fund~~] Account created  
3026 in Section 58-44a-103;

3027 (fff) funding for the building inspector's education program, as provided in Section  
3028 58-56-9;

3029 (ggg) certain fines collected by the Division of Occupational and Professional  
3030 Licensing for use in education and enforcement of the Security Personnel Licensing Act, as  
3031 provided in Section 58-63-103;

3032 (hhh) the Professional Geologist Education and Enforcement [~~Fund~~] Account created  
3033 in Section 58-76-103;

3034 (iii) certain monies in the Water Resources Conservation and Development Fund, as

3035 provided in Section 59-12-103;

3036 (jjj) funds paid to the Division of Real Estate for the cost of a criminal background  
3037 check for broker and sales agent licenses, as provided in Section 61-2-9;

3038 (kkk) the Utah Housing Opportunity Restricted Account created in Section 61-2-28;

3039 (lll) funds paid to the Division of Real Estate for the cost of a criminal background  
3040 check for a mortgage loan license, as provided in Section 61-2c-202;

3041 (mmm) funds paid to the Division of Real Estate in relation to examination of records  
3042 in an investigation, as provided in Section 61-2c-401;

3043 (nnn) certain funds donated to the Department of Human Services, as provided in  
3044 Section 62A-1-111;

3045 (ooo) certain funds donated to the Division of Child and Family Services, as provided  
3046 in Section 62A-4a-110;

3047 (ppp) the Mental Health Therapist Grant and Scholarship Program, as provided in  
3048 Section 62A-13-109;

3049 (qqq) assessments for DUI violations that are forwarded to an account created by a  
3050 county treasurer, as provided in Section 62A-15-503;

3051 (rrr) appropriations to the Division of Services for People with Disabilities, as provided  
3052 in Section 62A-5-102;

3053 (sss) certain donations to the Division of Substance Abuse and Mental Health, as  
3054 provided in Section 62A-15-103;

3055 (ttt) certain funds received by the Division of Parks and Recreation from the sale or  
3056 disposal of buffalo, as provided under Section 63-11-19.2;

3057 (uuu) revenue for golf user fees at the Wasatch Mountain State Park, Palisades State  
3058 Park, or Jordan River State Park, as provided under Section 63-11-19.5;

3059 (vvv) revenue for golf user fees at the Green River State Park, as provided under  
3060 Section 63-11-19.6;

3061 (www) the Centennial Nonmotorized Paths and Trail Crossings Program created under  
3062 Section 63-11a-503;

3063 (xxx) the Bonneville Shoreline Trail Program created under Section 63-11a-504;

3064 (yyy) the account for the Utah Geological Survey, as provided in Section 63-73-10;

3065 (zzz) the Risk Management Fund created under Section 63A-4-201;

3066 (aaaa) the Child Welfare Parental Defense Fund created in Section 63A-11-203;  
3067 (bbbb) the Constitutional Defense Restricted Account created in Section 63C-4-103;  
3068 (cccc) a portion of the funds appropriated to the Utah Seismic Safety Commission, as  
3069 provided in Section 63C-6-104;  
3070 (dddd) funding for the Medical Education Program administered by the Medical  
3071 Education Council, as provided in Section 63C-8-102;  
3072 (eeee) certain monies payable for commission expenses of the Pete Suazo Utah  
3073 Athletic Commission, as provided under Section 63C-11-301;  
3074 (ffff) funds collected for publishing the Division of Administrative Rules' publications,  
3075 as provided in Section 63G-3-402;  
3076 (gggg) the appropriation to fund the Governor's Office of Economic Development's  
3077 Enterprise Zone Act, as provided in Section 63M-1-416;  
3078 (hhhh) the Tourism Marketing Performance Account, as provided in Section  
3079 63M-1-1406;  
3080 (iiii) certain funding for rural development provided to the Office of Rural  
3081 Development in the Governor's Office of Economic Development, as provided in Section  
3082 63M-1-1604;  
3083 (jjjj) certain monies in the Development for Disadvantaged Rural Communities  
3084 Restricted Account, as provided in Section 63M-1-2003;  
3085 (kkkk) appropriations to the Utah Science Technology and Research Governing  
3086 Authority, created under Section 63M-2-301, as provided under Section 63M-3-302;  
3087 (llll) certain monies in the Rural Broadband Service [~~Fund~~] Account, as provided in  
3088 Section 63M-1-2303;  
3089 (mmmm) funds collected from monthly offender supervision fees, as provided in  
3090 Section 64-13-21.2;  
3091 (nnnn) funds collected by the housing of state probationary inmates or state parole  
3092 inmates, as provided in Subsection 64-13e-104(2);  
3093 (oooo) the Sovereign Lands Management account created in Section 65A-5-1;  
3094 (pppp) certain forestry and fire control funds utilized by the Division of Forestry, Fire,  
3095 and State Lands, as provided in Section 65A-8-103;  
3096 (qqqq) the Department of Human Resource Management user training program, as

3097 provided in Section 67-19-6;  
3098 (rrrr) funds for the University of Utah Poison Control Center program, as provided in  
3099 Section 69-2-5.5;  
3100 (ssss) appropriations to the Transportation Corridor Preservation Revolving Loan  
3101 Fund, as provided in Section 72-2-117;  
3102 (tttt) appropriations to the Local Transportation Corridor Preservation Fund, as  
3103 provided in Section 72-2-117.5;  
3104 (uuuu) appropriations to the Tollway [~~Restricted~~] Special Revenue Fund, as provided  
3105 in Section 77-2-120;  
3106 (vvvv) appropriations to the Aeronautics Construction Revolving Loan Fund, as  
3107 provided in Section 77-2-122;  
3108 (wwww) appropriations to the State Park Access Highways Improvement Program, as  
3109 provided in Section 72-3-207;  
3110 (xxxx) the Traffic Noise Abatement Program created in Section 72-6-112;  
3111 (yyyy) certain funds received by the Office of the State Engineer for well drilling fines  
3112 or bonds, as provided in Section 73-3-25;  
3113 (zzzz) certain monies appropriated to increase the carrying capacity of the Jordan River  
3114 that are transferred to the Division of Parks and Recreation, as provided in Section 73-10e-1;  
3115 (aaaa) certain fees for the cost of electronic payments under the State Boating Act, as  
3116 provided in Section 73-18-25;  
3117 (bbbb) certain monies appropriated from the Water Resources Conservation and  
3118 Development Fund, as provided in Section 73-23-2;  
3119 (cccc) the Lake Powell Pipeline Project Operation and Maintenance Fund created in  
3120 Section 73-28-404;  
3121 (ddddd) certain funds in the Water Development and Flood Mitigation Reserve  
3122 Account, as provided in Section 73-103-1;  
3123 (eeee) certain funds appropriated for compensation for special prosecutors, as  
3124 provided in Section 77-10a-19;  
3125 (ffff) the Indigent Aggravated Murder Defense Trust Fund created in Section  
3126 77-32-601;  
3127 (ggggg) the Indigent Felony Defense Trust Fund created in Section 77-32-701;

3128 (hhhhh) funds donated or paid to a juvenile court by private sources, as provided in  
3129 Subsection 78A-6-203(1)(c);

3130 (iiii) a state rehabilitative employment program, as provided in Section 78A-6-210;  
3131 and

3132 (jjjj) fees from the issuance and renewal of licenses for certified court interpreters, as  
3133 provided in Section 78B-1-146.

3134 (2) No revenue collection, appropriation from a fund or account, or appropriation to a  
3135 program may be treated as nonlapsing unless:

3136 (a) it is expressly referenced by this section;

3137 (b) it is designated in a condition of appropriation in the appropriations bill; or

3138 (c) nonlapsing authority is granted under Section 63J-1-603.

3139 (3) Each legislative appropriations subcommittee shall review the accounts and funds  
3140 that have been granted nonlapsing authority under this section or Section 63J-1-603.

3141 Section 63. Section **63J-6-203** is amended to read:

3142 **63J-6-203. Redemption account -- Creation -- Sources -- Use -- Investment --**  
3143 **Income.**

3144 (1) There is created a [~~special fund to be known as~~] restricted account within the  
3145 General Fund known as the "Tax and Revenue Anticipation Note Redemption [Fund," referred  
3146 to in this chapter as the "redemption fund."] Account. When any notes have been issued in  
3147 anticipation of income or revenue under this chapter, not less than two days before the  
3148 principal and interest on the notes comes due, income or revenue realized from the tax or  
3149 nontax sources specified in the approved plan of financing to be anticipated or from any other  
3150 source [~~or sources of monies~~] of money legally available for such purpose shall be placed in the  
3151 [~~redemption fund~~] restricted account so that the amount in the [~~redemption fund~~] restricted  
3152 account is sufficient to pay the principal amount of all notes outstanding, together with interest  
3153 on them.

3154 (2) The money in the [~~redemption fund~~] restricted account is appropriated solely for the  
3155 payment of the principal of and interest on the notes issued under this chapter. The payment of  
3156 the principal and interest on the notes issued under this chapter is not limited solely to the  
3157 income and revenues from the specific tax or nontax sources in anticipation of which the notes  
3158 were issued. Accrued interest received upon the sale of the notes shall be deposited by the state

3159 treasurer in the [~~redemption fund~~] restricted account.

3160 (3) The state treasurer may invest all money in the [~~redemption fund~~] restricted account  
3161 in accordance with Title 51, Chapter 7, State Money Management Act [~~of 1974~~], maturing at a  
3162 time which will permit payment of the principal of and interest on the notes in a timely manner  
3163 when due. The state treasurer may covenant with the purchasers of the notes as to the manner  
3164 of holding money in the [~~redemption fund~~] restricted account, the investment of money in the  
3165 [~~redemption fund~~] restricted account, and the disposition of any investment income therefrom  
3166 by retaining investment income in the [~~redemption fund~~] restricted account to be used to pay  
3167 principal of and interest on notes when due or by paying the investment income to the state  
3168 treasurer for deposit into the General Fund. If there is sufficient money in the [~~redemption~~  
3169 ~~fund~~] restricted account to pay all principal of and interest on all outstanding notes payable  
3170 therefrom, all investment income on it shall be paid to the state treasurer for deposit into the  
3171 General Fund.

3172 Section 64. Section **63M-1-902** is amended to read:

3173 **63M-1-902. Definitions.**

3174 As used in this part:

3175 (1) "Administrator" means the director or the director's designee.

3176 (2) "Board" means the Board of Business and Economic Development.

3177 (3) "Company creating an economic impediment" means a company that discourages  
3178 economic development within a reasonable radius of its location because of:

3179 (a) odors;

3180 (b) noise;

3181 (c) pollution;

3182 (d) health hazards; or

3183 (e) other activities similar to those described in Subsections (3)(a) through (d).

3184 (4) "Economic opportunities" means unique business situations or community  
3185 circumstances which lend themselves to the furtherance of the economic interests of the state  
3186 by providing a catalyst or stimulus to the growth or retention, or both, of commerce and  
3187 industry in the state.

3188 (5) "Economically disadvantaged rural area" means a geographic area designated by the  
3189 board under Section 63M-1-910.

3190            [(7)] (6) "Replacement company" means a company locating its business or part of its  
3191 business in a location vacated by a company creating an economic impediment.

3192            [(6) "Fund"] (7) "Restricted Account" means the restricted account known as the  
3193 Industrial Assistance [~~Fund~~] Account created in Section 63M-1-903.

3194            (8) "Targeted industry" means an industry or group of industries targeted by the board  
3195 under Section 63M-1-910, for economic development in the state.

3196            Section 65. Section **63M-1-903** is amended to read:

3197            **63M-1-903. Industrial Assistance Account created.**

3198            (1) There is created [~~within the General Fund~~] a restricted account within the General  
3199 Fund known as the "Industrial Assistance [~~Fund~~] Account" of which:

3200            (a) up to 50% shall be used in economically disadvantaged rural areas; and

3201            (b) up to 20% may be used to take timely advantage of economic opportunities as they  
3202 arise.

3203            (2) The [~~fund~~] restricted account shall be administered by the administrator under the  
3204 policy direction of the board.

3205            (3) The administrator may hire appropriate support staff.

3206            (4) The cost of administering the [~~fund~~] restricted account shall be paid from [~~monies~~]  
3207 money in the [~~fund~~] restricted account.

3208            (5) Interest accrued from investment of [~~monies~~] money in the [~~fund~~] restricted account  
3209 shall remain in the [~~fund~~] restricted account.

3210            Section 66. Section **63M-1-904** is amended to read:

3211            **63M-1-904. Rural Fast Track Program -- Creation -- Funding -- Qualifications**  
3212 **for program participation -- Awards -- Reports.**

3213            (1) (a) There is created the Rural Fast Track Program, hereafter referred to in this  
3214 section as "the program."

3215            (b) The program is a funded component of the economically disadvantaged rural areas  
3216 designation in Subsection 63M-1-903(1)(a).

3217            (2) The purpose of the program is to provide an efficient way for small companies in  
3218 rural Utah to receive incentives for creating high paying jobs in the rural areas of the state and  
3219 to further promote business and economic development in rural Utah.

3220            (3) (a) Twenty percent of the money in the Industrial Assistance [~~Fund~~] Account at the

3221 beginning of each fiscal year shall be used to fund the program.

3222 (b) The 20% referred to in Subsection (3)(a) is not in addition to but is a part of the up  
3223 to 50% designation for economically disadvantaged rural areas referred to in Subsection  
3224 63M-1-903(1)(a).

3225 (c) If any of the 20% allocation referred to in Subsection (3)(a) has not been used in the  
3226 program by the end of the third quarter of each fiscal year, that money may be used for any  
3227 other loan, grant, or assistance program offered through the Industrial Assistance [~~Fund~~  
3228 Account] during the fiscal year.

3229 (4) (a) To qualify for participation in the program a company shall:

3230 (i) complete and file with the office an application for participation in the program,  
3231 signed by an officer of the company;

3232 (ii) be located and conduct its business operations in a county in the state that has:

3233 (A) a population of less than 30,000; and

3234 (B) an average household income of less than \$60,000 as reflected in the most recently  
3235 available data collected and reported by the United States Census Bureau;

3236 (iii) have been in business in the state for at least two years; and

3237 (iv) have at least two employees.

3238 (b) (i) Office staff shall verify an applicant's qualifications under Subsection (4)(a).

3239 (ii) The application must be approved by the administrator in order for a company to  
3240 receive an incentive or other assistance under this section.

3241 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
3242 administrator may make rules governing:

3243 (i) the content of the application form referred to in Subsection (4)(a)(i);

3244 (ii) who qualifies as an employee under Subsection (4)(a)(iv); and

3245 (iii) the verification procedure referred to in Subsection (4)(b).

3246 (5) (a) The administrator shall make incentive cash awards to small companies under  
3247 this section based on the following criteria:

3248 (i) \$1,000 for each new incremental job that pays over 110% of the county's average  
3249 annual wage;

3250 (ii) \$1,250 for each incremental job that pays over 115% of the county's average annual  
3251 wage; and

3252 (iii) \$1,500 for each incremental job that pays over 125% of the county's average  
3253 annual wage.

3254 (b) The administrator shall make a cash award under Subsection (5)(a) when a new  
3255 incremental job has been in place for at least 12 months.

3256 (c) The creation of a new incremental job by a company is based on the number of  
3257 employees at the company during the previous 24 months.

3258 (d) (i) A small company may also apply for grants, loans, or other financial assistance  
3259 under the program to help develop its business in rural Utah and may receive up to \$50,000  
3260 under the program if approved by the administrator.

3261 (ii) The board must approve a distribution that exceeds the \$50,000 cap under  
3262 Subsection (5)(d)(i).

3263 (6) The administrator shall make a quarterly report to the board of the awards made by  
3264 the administrator under this section and an annual report to the Legislative Workforce Services  
3265 and Community and Economic Development Interim Committee as to the awards and their  
3266 impact on economic development in the state's rural areas.

3267 Section 67. Section **63M-1-905** is amended to read:

3268 **63M-1-905. Loans, grants, and assistance -- Repayment -- Earned credits.**

3269 (1) (a) A company that qualifies under Section 63M-1-906 may receive loans, grants,  
3270 or other financial assistance from the [fund] Industrial Assistance Account for expenses related  
3271 to establishment, relocation, or development of industry in Utah.

3272 (b) A company creating an economic impediment that qualifies under Section  
3273 63M-1-908 may in accordance with this part receive loans, grants, or other financial assistance  
3274 from the [fund] restricted account for the expenses of the company creating an economic  
3275 impediment related to:

3276 (i) relocation to a rural area in Utah of the company creating an economic impediment;  
3277 and

3278 (ii) the siting of a replacement company.

3279 (c) An entity offering an economic opportunity that qualifies under Section 63M-1-909  
3280 may:

3281 (i) receive loans, grants, or other financial assistance from the [fund] restricted account  
3282 for expenses related to the establishment, relocation, retention, or development of industry in

3283 the state; and

3284 (ii) include infrastructure or other economic development precursor activities that act  
3285 as a catalyst and stimulus for economic activity likely to lead to the maintenance or  
3286 enlargement of the state's tax base.

3287 (2) (a) Subject to Subsection (2)(b), the administrator has authority to determine the  
3288 structure, amount, and nature of any loan, grant, or other financial assistance from the [fund]  
3289 restricted account.

3290 (b) Loans made under Subsection (2)(a) shall be structured so the intended repayment  
3291 or return to the state, including cash or credit, equals at least the amount of the assistance  
3292 together with an annual interest charge as negotiated by the administrator.

3293 (c) Payments resulting from grants awarded from the [fund] restricted account shall be  
3294 made only after the administrator has determined that the company has satisfied the conditions  
3295 upon which the payment or earned credit was based.

3296 (3) (a) (i) Except as provided in Subsection (3)(b), the administrator may provide for a  
3297 system of earned credits that may be used to support grant payments or in lieu of cash  
3298 repayment of a [fund] restricted account loan obligation.

3299 (ii) The value of the credits described in Subsection (3)(a)(i) shall be based on factors  
3300 determined by the administrator, including:

3301 (A) the number of Utah jobs created;

3302 (B) the increased economic activity in Utah; or

3303 (C) other events and activities that occur as a result of the [fund] restricted account  
3304 assistance.

3305 (b) (i) The administrator shall provide for a system of credits to be used to support  
3306 grant payments or in lieu of cash repayment of a [fund] restricted account loan when loans are  
3307 made to a company creating an economic impediment.

3308 (ii) The value of the credits described in Subsection (3)(b)(i) shall be based on factors  
3309 determined by the administrator, including:

3310 (A) the number of Utah jobs created;

3311 (B) the increased economic activity in Utah; or

3312 (C) other events and activities that occur as a result of the [fund] restricted account  
3313 assistance.

3314 (4) (a) A cash loan repayment or other cash recovery from a company receiving  
3315 assistance under this section, including interest, shall be deposited into the [fund] restricted  
3316 account.

3317 (b) The administrator and the Division of Finance shall determine the manner of  
3318 recognizing and accounting for the earned credits used in lieu of loan repayments or to support  
3319 grant payments as provided in Subsection (3).

3320 (5) (a) At the end of each fiscal year, the unrestricted, undesignated General Fund  
3321 balance after the transfers of surplus of General Fund revenues described in this Subsection  
3322 (5)(a) shall be earmarked to the Industrial Assistance [Fund] Account in an amount equal to  
3323 any credit that has accrued under this part. The earmark required by this Subsection (5)(a) shall  
3324 be made after the transfer of surplus General Fund revenues is made:

3325 (i) to the General Fund Budget Reserve Account as provided in Section 63J-1-312; and

3326 (ii) beginning with the fiscal year ending June 30, 2007, as provided in Section  
3327 63J-1-314.

3328 (b) These credit amounts may not be used for purposes of the [fund] restricted account  
3329 as provided in this part until appropriated by the Legislature.

3330 Section 68. Section **63M-1-906** is amended to read:

3331 **63M-1-906. Qualification for assistance.**

3332 (1) Except as provided in Section 63M-1-908 or 63M-1-909, the administrator shall  
3333 determine which industries, companies, and individuals qualify to receive monies from the  
3334 [fund] Industrial Assistance Account. Except as provided by Subsection (2), to qualify for  
3335 financial assistance from the [fund] restricted account, an applicant shall:

3336 (a) demonstrate to the satisfaction of the administrator that the applicant will expend  
3337 funds in Utah with employees, vendors, subcontractors, or other businesses in an amount  
3338 proportional with monies provided from the [fund] restricted account at a minimum ratio of 2  
3339 to 1 per year or other more stringent requirements as established from time to time by the board  
3340 for a minimum period of five years beginning with the date the loan or grant was approved;

3341 (b) demonstrate to the satisfaction of the administrator the applicant's ability to sustain  
3342 economic activity in the state sufficient to repay, by means of cash or appropriate credits, the  
3343 loan provided by the [fund] restricted account; and

3344 (c) satisfy other criteria the administrator considers appropriate.

3345 (2) (a) The administrator may exempt an applicant from the requirements of Subsection  
3346 (1)(a) or (b) if:

3347 (i) the financial assistance is provided to an applicant for the purpose of locating all or  
3348 any portion of its operations to an economically disadvantaged rural area;

3349 (ii) the applicant is part of a targeted industry;

3350 (iii) the applicant is a quasi-public corporation organized under Title 16, Chapter 6a,  
3351 Utah Revised Nonprofit Corporation Act, or Title 63E, Chapter 2, Independent Corporations  
3352 Act, and its operations, as demonstrated to the satisfaction of the administrator, will provide  
3353 significant economic stimulus to the growth of commerce and industry in the state; or

3354 (iv) the applicant is an entity offering an economic opportunity under Section  
3355 63M-1-909.

3356 (b) The administrator may not exempt the applicant from the requirement under  
3357 Subsection 63M-1-905(2)(b) that the loan be structured so that the repayment or return to the  
3358 state equals at least the amount of the assistance together with an annual interest charge.

3359 (3) The administrator shall:

3360 (a) for applicants not described in Subsection (2)(a):

3361 (i) make findings as to whether or not each applicant has satisfied each of the  
3362 conditions set forth in Subsection (1); and

3363 (ii) monitor the continued compliance by each applicant with each of the conditions set  
3364 forth in Subsection (1) for five years;

3365 (b) for applicants described in Subsection (2)(a), make findings as to whether the  
3366 economic activities of each applicant has resulted in the creation of new jobs on a per capita  
3367 basis in the economically disadvantaged rural area or targeted industry in which the applicant is  
3368 located;

3369 (c) monitor the compliance by each applicant with the provisions of any contract or  
3370 agreement entered into between the applicant and the state as provided in Section 63M-1-907;  
3371 and

3372 (d) make funding decisions based upon appropriate findings and compliance.

3373 Section 69. Section **63M-1-908** is amended to read:

3374 **63M-1-908. Financial assistance to companies that create economic impediments.**

3375 (1) (a) The administrator may provide monies from the [fund] Industrial Assistance

3376 Account to a company creating an economic impediment if that company:

- 3377 (i) applies to the administrator;
- 3378 (ii) relocates to a rural area in Utah; and
- 3379 (iii) meets the qualifications of Subsection (1)(b).

3380 (b) Except as provided by Subsection (2), to qualify for financial assistance from the

3381 ~~[fund]~~ restricted account, a company creating an economic impediment shall:

3382 (i) demonstrate to the satisfaction of the administrator that the company creating an

3383 economic impediment, its replacement company, or in the aggregate the company creating the

3384 economic impediment and its replacement company:

3385 (A) will expend funds in Utah with employees, vendors, subcontractors, or other

3386 businesses in an amount proportional with monies provided from the ~~[fund]~~ restricted account

3387 at a minimum ratio of 2 to 1 per year or other more stringent requirements as established from

3388 time to time by the board for a minimum period of five years beginning with the date the loan

3389 or grant was approved; and

3390 (B) can sustain economic activity in the state sufficient to repay, by means of cash or

3391 appropriate credits, the loan provided by the ~~[fund]~~ restricted account; and

3392 (ii) satisfy other criteria the administrator considers appropriate.

3393 (2) (a) The administrator may exempt a company creating an economic impediment

3394 from the requirements of Subsection (1)(b)(i)(A) if:

3395 (i) the financial assistance is provided to a company creating an economic impediment

3396 for the purpose of locating all or any portion of its operations to an economically disadvantaged

3397 rural area; or

3398 (ii) its replacement company is part of a targeted industry.

3399 (b) The administrator may not exempt a company creating an economic impediment

3400 from the requirement under Subsection 63M-1-905(2)(b) that the loan be structured so that the

3401 repayment or return to the state equals at least the amount of the assistance together with an

3402 annual interest charge.

3403 (3) The administrator shall:

3404 (a) make findings as to whether or not a company creating an economic impediment,

3405 its replacement company, or both, have satisfied each of the conditions set forth in Subsection

3406 (1);

3407 (b) monitor the compliance by a company creating an economic impediment, its  
3408 replacement company, or both, with:

3409 (i) each of the conditions set forth in Subsection (1); and

3410 (ii) any contract or agreement under Section 63M-1-907 entered into between:

3411 (A) the company creating an economic impediment; and

3412 (B) the state; and

3413 (c) make funding decisions based upon appropriate findings and compliance.

3414 Section 70. Section **63M-1-909** is amended to read:

3415 **63M-1-909. Financial assistance to entities offering economic opportunities.**

3416 (1) Subject to the duties and powers of the board under Section 63M-1-303, the  
3417 administrator may provide monies from the [~~fund~~] Industrial Assistance Account to an entity  
3418 offering an economic opportunity if that entity:

3419 (a) applies to the administrator; and

3420 (b) meets the qualifications of Subsection (2).

3421 (2) The applicant shall:

3422 (a) demonstrate to the satisfaction of the administrator the nature of the economic  
3423 opportunity and the related benefit to the economic well-being of the state by providing  
3424 evidence documenting the logical and compelling linkage, either direct or indirect, between the  
3425 expenditure of monies necessitated by the economic opportunity and the likelihood that the  
3426 state's tax base will be maintained or enlarged;

3427 (b) demonstrate how the funding request will act in concert with other state, federal, or  
3428 local agencies to achieve the economic benefit;

3429 (c) demonstrate how the funding request will act in concert with free market principles;

3430 (d) satisfy other criteria the administrator considers appropriate; and

3431 (e) be either:

3432 (i) an entity whose purpose is to exclusively or substantially promote, develop, or  
3433 maintain the economic welfare and prosperity of the state as a whole, regions of the state, or  
3434 specific components of the state; or

3435 (ii) a company or individual that does not otherwise qualify under Section 63M-1-906.

3436 (3) Subject to the duties and powers of the board under Section 63M-1-303, the  
3437 administrator shall:

3438 (a) make findings as to whether an applicant has satisfied each of the conditions set  
3439 forth in Subsection (2);

3440 (b) establish benchmarks and timeframes in which progress toward the completion of  
3441 the agreed upon activity is to occur;

3442 (c) monitor compliance by an applicant with any contract or agreement entered into by  
3443 the applicant and the state as provided by Section 63M-1-907; and

3444 (d) make funding decisions based upon appropriate findings and compliance.

3445 Section 71. Section **63M-1-1211** is amended to read:

3446 **63M-1-1211. Management fee -- Additional financial assistance.**

3447 (1) The corporation may charge a management fee on assets under management in the  
3448 Utah fund of funds.

3449 (2) The fee shall:

3450 (a) be in addition to any fee charged to the Utah fund of funds by the venture capital  
3451 investment fund allocation manager selected by the corporation; and

3452 (b) be charged only to pay for reasonable and necessary costs of the corporation.

3453 (3) The corporation may apply for and, when qualified, receive financial assistance  
3454 from the Industrial Assistance [~~Fund~~] Account under Title 63M, Chapter 1, Part 9, Industrial  
3455 Assistance [~~Fund~~] Account, and under rules made by the Board of Business and Economic  
3456 Development in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
3457 to help establish the program authorized under this part.

3458 Section 72. Section **63M-1-1802** is amended to read:

3459 **63M-1-1802. Definitions.**

3460 As used in this part:

3461 (1) "Board" means the Governor's Office of Economic Development Board.

3462 (2) "Dollars left in the state" means expenditures made in the state for a state-approved  
3463 production, including:

3464 (a) an expenditure that is subject to:

3465 (i) a corporate franchise or income tax under Title 59, Chapter 7, Corporate Franchise  
3466 and Income Taxes;

3467 (ii) an individual income tax under Title 59, Chapter 10, Individual Income Tax Act;

3468 and

- 3469 (iii) a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act,  
 3470 notwithstanding any sales and use tax exemption allowed by law;
- 3471 (b) payments made to a nonresident only to the extent of the income tax paid to the  
 3472 state on the payments, the amount of per diems paid, and other direct reimbursements  
 3473 transacted in the state; and
- 3474 (c) payments made to a payroll company or loan-out corporation that is registered to do  
 3475 business in the state, only to the extent of the amount of withholding under Section 59-10-402.
- 3476 ~~[(4)]~~ (3) "Loan-out corporation" means a corporation owned by one or more artists that  
 3477 provides services of the artists to a third party production company.
- 3478 ~~[(5)]~~ (4) "Motion picture company" means a company engaged in the production of:  
 3479 (a) motion pictures;  
 3480 (b) television series; or  
 3481 (c) made-for-television movies.
- 3482 ~~[(6)]~~ (5) "Motion picture incentive" means either a cash rebate from the Motion Picture  
 3483 Incentive ~~[Fund]~~ Account or a refundable tax credit under Section 59-7-614.5 or 59-10-1108.
- 3484 ~~[(7)]~~ (6) "Office" means the Governor's Office of Economic Development.
- 3485 ~~[(8)]~~ (7) "Payroll company" means a business entity that handles the payroll and  
 3486 becomes the employer of record for the staff, cast, and crew of a motion picture production.
- 3487 ~~[(9)]~~ (8) "Refundable tax credit" means a refundable motion picture tax credit  
 3488 authorized under Section 63M-1-1803 and claimed under Section 59-7-614.5 or 59-10-1108.
- 3489 ~~[(3) "Fund"]~~ (9) "Restricted account" means the ~~[restricted account known as the]~~  
 3490 Motion Picture Incentive ~~[Fund]~~ Account created in Section 63M-1-1803.
- 3491 (10) "State-approved production" means a motion picture, television series, or  
 3492 made-for-television movie approved by the administrator and ratified by the board that is  
 3493 produced in the state by a motion picture company.
- 3494 (11) "Tax credit amount" means the amount the office lists as a tax credit on a tax  
 3495 credit certificate for a taxable year.
- 3496 (12) "Tax credit certificate" means a certificate issued by the office that:  
 3497 (a) lists the name of the applicant;  
 3498 (b) lists the applicant's taxpayer identification number;  
 3499 (c) lists the amount of tax credit that the office awards the applicant for the taxable

3500 year; and

3501 (d) may include other information as determined by the office.

3502 Section 73. Section **63M-1-1803** is amended to read:

3503 **63M-1-1803. Motion Picture Incentive Account created -- Cash rebate incentives**  
3504 **-- Refundable tax credit incentives.**

3505 (1) (a) There is created [~~within the General Fund~~] a restricted account within the  
3506 General Fund known as the "Motion Picture Incentive [Fund;] Account." which shall be used  
3507 to provide cash rebate incentives for within-the-state production of television series,  
3508 made-for-television movies, and motion pictures, including feature films and independent  
3509 films.

3510 (b) [~~All interest~~] Interest generated from investment of money in the [~~fund~~] restricted  
3511 account shall be deposited in the [~~fund~~] restricted account.

3512 (c) The [~~fund~~] restricted account shall consist of an annual appropriation by the  
3513 Legislature.

3514 (d) The Division of Finance shall make payments from the account as required under  
3515 this section.

3516 (2) (a) A motion picture company seeking disbursement of an incentive allowed under  
3517 an agreement with the office shall follow the procedures and requirements of this Subsection  
3518 (2).

3519 (b) (i) The motion picture company shall provide the office with a report identifying  
3520 and documenting the dollars left in the state by the motion picture company for its  
3521 state-approved production, including any related tax returns by the motion picture company,  
3522 payroll company, or loan-out corporation under Subsection (2)(c).

3523 (ii) An independent certified public accountant shall:

3524 (A) prepare the report on behalf of the motion picture company; and

3525 (B) attest to the accuracy and validity of the report, including the amount of dollars left  
3526 in the state.

3527 (c) The motion picture company, payroll company, or loan-out corporation shall  
3528 provide the office with a document that expressly directs and authorizes the State Tax  
3529 Commission to disclose the entity's tax returns and other information concerning the entity that  
3530 would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal

3531 Revenue Code, to the office.

3532 (d) The office shall submit the document described in Subsection (2)(c) to the State  
3533 Tax Commission.

3534 (e) Upon receipt of the document described in Subsection (2)(c), the State Tax  
3535 Commission shall provide the office with the information requested by the office that the  
3536 motion picture company, payroll company, or loan-out corporation directed or authorized the  
3537 State Tax Commission to provide to the office in the document described in Subsection (2)(c).

3538 (f) Subject to Subsection (3), the office shall:

3539 (i) review the report from the motion picture company described in Subsection (2)(b)  
3540 and verify that it was prepared by an independent certified public accountant; and

3541 (ii) based upon the certified public accountant's attestation under Subsection (2)(b),  
3542 determine the amount of the incentive that the motion picture company is entitled to under its  
3543 agreement with the office.

3544 (g) Subject to Subsection (3), if the incentive is in the form of a cash rebate, the office  
3545 shall submit to the Division of Finance:

3546 (i) a request for payment of the cash rebate incentive to the motion picture company;

3547 (ii) the name and address of the payee; and

3548 (iii) any other information requested by the Division of Finance.

3549 (h) Upon receipt of a request for payment of a cash rebate incentive under Subsection  
3550 (2)(g), the Division of Finance shall:

3551 (i) transfer from the General Fund to the restricted account the amount contained in the  
3552 request for payment of a cash rebate incentive after reducing the amount transferred by any  
3553 unencumbered balances in the restricted account; and

3554 (ii) notwithstanding Subsections 51-5-3(23)(b) and 63J-1-104(4)(c), after receiving a  
3555 request for payment of a cash rebate incentive and making the transfer required by Subsection  
3556 (2)(h)(i), pay the incentive from the restricted account.

3557 (i) If the incentive is in the form of a refundable tax credit under Section 59-7-614.5 or  
3558 59-10-1108, the office shall:

3559 (i) issue a tax credit certificate to the motion picture company; and

3560 (ii) provide a duplicate copy of the tax credit certificate to the State Tax Commission.

3561 (j) A motion picture company may not claim a motion picture tax credit under Section

3562 59-7-614.5 or 59-10-1108 unless the motion picture company has received a tax credit  
3563 certificate for the claim issued by the office under Subsection (2)(i)(i).

3564 (k) A motion picture company may claim a motion picture tax credit on its tax return  
3565 for the amount listed on the tax credit certificate issued by the office.

3566 (l) A motion picture company that claims a tax credit under Subsection (2)(k) shall  
3567 retain the tax credit certificate in accordance with Subsection 63M-1-1804(5)(d).

3568 (3) (a) Subject to Subsection (3)(b), the office may issue up to:

3569 (i) (A) \$7,793,700 in tax credit certificates under this part in fiscal year 2009-10; and

3570 (B) \$7,793,700 in tax credit certificates under this part in fiscal year 2010-11; and

3571 (ii) \$2,206,300 in motion picture cash rebates under this part in a fiscal year.

3572 (b) If the total amount of tax credit certificates the office issues in a fiscal year is less  
3573 than the amount of tax credit certificates the office may issue in that fiscal year under  
3574 Subsection (3)(a)(i)(A) or (B), the office may issue the remaining amount of tax credit  
3575 certificates in a fiscal year after the fiscal year for which there is a remaining amount of tax  
3576 credit certificates.

3577 (c) Notwithstanding any other provision of this part or Section 59-7-614.5 or  
3578 59-10-1108, beginning on July 1, 2011, the office may not issue a tax credit certificate unless:

3579 (i) the Legislature expressly provides funding in the office's budget for the office to  
3580 issue the tax credit certificate; or

3581 (ii) there is a remaining amount of tax credit that the office may issue in accordance  
3582 with Subsection (3)(b).

3583 Section 74. Section **63M-1-1804** is amended to read:

3584 **63M-1-1804. Motion picture incentives -- Standards to qualify for an incentive --**  
3585 **Limitations -- Content of agreement between office and motion picture company.**

3586 (1) In addition to the requirements for receiving a motion picture incentive as set forth  
3587 in this part, the office, in accordance with Title 63G, Chapter 3, Utah Administrative  
3588 Rulemaking Act, shall make rules establishing the standards that a motion picture company  
3589 must meet to qualify for the motion picture incentive.

3590 (2) The office shall ensure that those standards include the following:

3591 (a) an incentive may only be issued for a within-the-state production of:

3592 (i) a television series;

- 3593 (ii) a made-for-television movie; or
- 3594 (iii) a motion picture, including feature films and independent films;
- 3595 (b) financing has been obtained and is in place for the production; and
- 3596 (c) the economic impact of the production on the state represents new incremental
- 3597 economic activity in the state as opposed to existing economic activity.
- 3598 (3) The office may also consider giving preference to a production that stimulates
- 3599 economic activity in rural areas of the state or that has Utah content, such as recognizing that
- 3600 the production was made in the state or uses Utah as Utah in the production.
- 3601 (4) (a) The office, with advice from the board, may enter into an agreement with a
- 3602 motion picture company that meets the standards established under this section and satisfies the
- 3603 other qualification requirements under this part.
- 3604 (b) Subject to Subsection 63M-1-1803(3), the office may commit or authorize a motion
- 3605 picture incentive to a motion picture company if that incentive does not exceed 20% of the
- 3606 dollars left in the state by the motion picture company.
- 3607 (c) A cash rebate incentive from the Motion Picture Incentive [~~Fund~~] Restricted
- 3608 Account may not exceed \$500,000 per production.
- 3609 (5) The office shall ensure that the agreement entered into with a motion picture
- 3610 company under Subsection (4)(a):
- 3611 (a) details the requirements that the motion picture company must meet to qualify for
- 3612 an incentive under this part;
- 3613 (b) specifies:
- 3614 (i) the nature of the incentive; and
- 3615 (ii) the maximum amount of the motion picture incentive that the motion picture
- 3616 company may earn for a taxable year and over the life of the production;
- 3617 (c) establishes the length of time over which the motion picture company may claim
- 3618 the motion picture incentive;
- 3619 (d) requires the motion picture company to retain records supporting its claim for a
- 3620 motion picture incentive for at least four years after the motion picture company claims the
- 3621 incentive under this part; and
- 3622 (e) requires the motion picture company to submit to audits for verification of the
- 3623 claimed motion picture incentive.

3624 Section 75. Section **63M-1-2301** is amended to read:

3625 **63M-1-2301. Title.**

3626 This part is known as the "Rural Broadband Service [~~Fund~~] Account Act."

3627 Section 76. Section **63M-1-2302** is amended to read:

3628 **63M-1-2302. Definitions.**

3629 As used in this part:

3630 (1) "Broadband service" means any wire line technology identified by the director as  
3631 having the capacity to transmit data from and to a subscriber's computer to the Internet or  
3632 Internet-related services at a minimum rate of data transmission of 256 kilobits per second.

3633 [~~(3)~~] (2) "Provider" means a person who will provide retail broadband service to  
3634 subscribers in a rural area.

3635 [~~(2) "Fund"~~] (3) "Restricted account" means [~~the restricted account known as~~] the  
3636 Rural Broadband Service [~~Fund~~] Account created in Section 63M-1-2303.

3637 (4) "Rural area" means any territory in the state:

3638 (a) within a city, town, or unincorporated area with a population of 10,000 or less  
3639 based on the most recently published data of the United States Census Bureau; and

3640 (b) in which broadband service is not available.

3641 Section 77. Section **63M-1-2303** is amended to read:

3642 **63M-1-2303. Rural Broadband Service Account created -- Interest -- Costs --**  
3643 **Deposits to the General Fund.**

3644 (1) There is created [~~within the General Fund~~] a restricted account within the General  
3645 Fund known as the "Rural Broadband Service [~~Fund~~] Account."

3646 (2) The [~~fund~~] restricted account shall be funded by [~~monies~~] money appropriated [~~to~~  
3647 ~~the fund~~] by the Legislature.

3648 (3) (a) The state treasurer shall invest [~~monies~~] money in the account according to Title  
3649 51, Chapter 7, State Money Management Act.

3650 (b) The Division of Finance shall deposit interest or other earnings derived from  
3651 investment of account [~~monies~~] money into the General Fund.

3652 (4) Upon appropriation by the Legislature, the [~~monies~~] money deposited into the  
3653 [~~fund~~] restricted account in accordance with this section may be expended:

3654 (a) by the director with the advice of the board to award grants to providers as provided

3655 in this part; and

3656 (b) to cover the costs of administering this part in an amount during any fiscal year not  
3657 to exceed 2% of the [~~fund~~] restricted account balance at the start of any fiscal year.

3658 (5) (a) Except as provided in Subsection (5)(b), the [~~monies~~] money deposited into the  
3659 [~~fund~~] restricted account in accordance with this section are nonlapsing.

3660 (b) Notwithstanding Subsection (5)(a), the Division of Finance shall deposit any  
3661 [~~monies~~] money in the [~~fund~~] restricted account into the General Fund on July 1, 2010.

3662 Section 78. Section **63M-1-2304** is amended to read:

3663 **63M-1-2304. Grants for rural broadband deployment.**

3664 (1) (a) A provider that wishes to deploy broadband service in a rural area may file an  
3665 application for a grant with the office.

3666 (b) An application shall:

3667 (i) be accompanied by an affidavit executed by the provider under oath; and

3668 (ii) provide information prescribed in rules adopted by the director.

3669 (2) The director shall:

3670 (a) provide reasonable public notice of an application;

3671 (b) allow public comment on the application for a reasonable period of time;

3672 (c) allow any other provider a reasonable opportunity to file an application to provide  
3673 broadband service in all or part of the rural area specified in the application filed under  
3674 Subsection (1); and

3675 (d) make rules concerning the method of providing public notice, the time period for  
3676 public comment, and the manner of filing a competing application.

3677 (3) (a) The office shall review all applications submitted in accordance with  
3678 Subsections (1) and (2) to provide broadband service in a rural area.

3679 (b) In reviewing any application, the office may obtain information from the provider  
3680 or others and conduct its own analysis of any issue relevant to the application, including  
3681 economic development.

3682 (4) After review of all applications for any rural area in accordance with Subsection  
3683 (3), the director may approve an application and enter into a written agreement with a provider  
3684 to provide a grant from the [~~fund~~] restricted account if the director, with the advice of the  
3685 board, is satisfied that the provider's application establishes that:

3686 (a) the provider has the financial, managerial, and technical ability to deploy broadband  
3687 service in the rural area in accordance with the application;

3688 (b) the territory in which the provider proposes to deploy broadband service is a rural  
3689 area;

3690 (c) the cost of deployment of broadband service in the rural area is reasonable;

3691 (d) the initial terms and conditions on which broadband service will be made available  
3692 to potential subscribers in the rural area are reasonable;

3693 (e) the provider has a viable business plan to continue providing broadband service to  
3694 all or some subscribers within the rural area;

3695 (f) if a competitive application was filed for the rural area, the provider's application is  
3696 the most advantageous application to potential subscribers or the state; and

3697 (g) the application otherwise meets the requirements of this part and any rules adopted  
3698 by the director concerning broadband service deployment.

3699 (5) (a) The director may, with the advice of the board, require the provider to make  
3700 adjustments to the application or agree to reasonable conditions consistent with the purposes of  
3701 this part before approving the application.

3702 (b) Any adjustments and conditions required by the director shall be included in the  
3703 written agreement entered into with the provider.

3704 (6) The amount of any grant provided from the [~~fund~~] restricted account shall be no  
3705 greater than the lesser of 1/2 of:

3706 (a) the actual cost of deployment of broadband service in the rural area as established  
3707 by verified accounts filed with the office after completion of deployment; or

3708 (b) the projected amount established during the application process by the director and  
3709 board for the deployment of broadband service in the rural area as provided in the verified  
3710 application.

3711 (7) Upon completion of deployment of broadband service by a provider in accordance  
3712 with the terms of an agreement as provided in Subsection (4), the director shall pay the amount  
3713 of the grant agreed upon consistent with Subsection (6) to the provider from the [~~fund~~]  
3714 restricted account.

3715 (8) In making any determination required under this section, the director, the office,  
3716 and the board:

3717 (a) may not discriminate against any accepted technology for provision of broadband  
3718 service other than for reasons of cost or the terms and conditions upon which the provider  
3719 proposes to provide broadband service to potential subscribers; and

3720 (b) may consult with the Division of Public Utilities created in Section 13-1-2.

3721 Section 79. Section **63M-1-2305** is amended to read:

3722 **63M-1-2305. Annual report.**

3723 (1) The office shall make a report to the Legislature's Workforce Services and  
3724 Community and Economic Development Interim Committee by October 1 of each year until  
3725 the ~~[fund]~~ restricted account is terminated under Subsection 63M-1-2303(5)(b).

3726 (2) The report required by Subsection (1) shall provide information concerning  
3727 deployment of broadband service using grants from the ~~[fund]~~ restricted account, pending  
3728 applications, the balance remaining in the ~~[fund]~~ restricted account, and suggested  
3729 appropriations to the ~~[fund]~~ restricted account to achieve the purposes of this part.

3730 Section 80. Section **67-5-25** is amended to read:

3731 **67-5-25. Litigation Account for Highway Projects.**

3732 (1) There is created ~~[within the General Fund]~~ a restricted account within the General  
3733 Fund known as the "Litigation [Fund] Account for Highway Projects [Account]."

3734 (2) The Litigation ~~[Fund]~~ Account for Highway Projects ~~[Account]~~ consists of:

3735 (a) appropriations made to the restricted account by the Legislature;

3736 (b) transfers to the restricted account from highway project funds as approved by the  
3737 Transportation Commission; and

3738 (c) any donations made to the restricted account.

3739 (3) (a) The state treasurer shall invest ~~[monies]~~ money in the restricted account  
3740 according to Title 51, Chapter 7, State Money Management Act.

3741 (b) The Division of Finance shall deposit interest or other earnings derived from  
3742 investment of restricted account ~~[monies]~~ money into the General Fund.

3743 (4) (a) Upon appropriation by the Legislature, the attorney general shall use ~~[monies]~~  
3744 money from the account to pay litigation expenses for defending legal actions filed against the  
3745 state that challenge highway projects.

3746 (b) The Legislature intends that ~~[monies]~~ money in the account be appropriated for a  
3747 project's litigation expenses before appropriating funds for litigation expenses from any other

3748 source.

3749 (5) The Division of Finance shall:

3750 (a) establish subaccounts within the [~~Litigation Fund for Highway Projects Account~~]

3751 restricted account to hold [~~monies~~] money appropriated by the Legislature for litigation

3752 expenses for different highway projects; and

3753 (b) apportion donations received equally among subaccounts unless the donor directs

3754 that the donation:

3755 (i) be used to defend a specific legal action; or

3756 (ii) be deposited into a specific subaccount[~~, and~~].

3757 [~~(c) apportion interest between subaccounts proportionally based upon the balance of~~

3758 ~~each subaccount.~~]

3759 (6) When some or all of the money appropriated to fund litigation expenses for a

3760 particular highway project is not expended, the Legislature shall return the money to the donor.

3761 Section 81. Section **70-3a-203** is amended to read:

3762 **70-3a-203. Fees.**

3763 (1) (a) A fee shall be determined by the division in accordance with the requirements of

3764 Section 63J-1-504, but may not exceed \$250 annually for electronic registration of a mark in a

3765 single class.

3766 (b) A person who pays the annual fee for the electronic registration of a mark may

3767 register additional classes for the same mark for an additional fee not to exceed \$25 annually.

3768 (2) A fee approved pursuant to this section shall be deposited in [~~a restricted account~~

3769 ~~within the General Fund known as~~] the Commerce Service [~~Fund~~] Account created by Section

3770 13-1-2.

3771 Section 82. Section **72-2-106** is amended to read:

3772 **72-2-106. Appropriation from Transportation Fund.**

3773 [~~(1)~~] On and after July 1, 1981, there is appropriated from the Transportation Fund to

3774 the use of the department an amount equal to two-elevenths of the taxes collected from the

3775 motor fuel tax and the special fuel tax, exclusive of the formula amount appropriated to the B

3776 and C road fund and the collector road fund, to be used for highway rehabilitation.

3777 [~~(2) All of this money shall be placed in an account known as the "Transportation Fund~~

3778 ~~-Highway Rehabilitation Restricted Account."~~]

3779 Section 83. Section **72-2-120** is amended to read:

3780 **72-2-120. Tollway Restricted Special Revenue Fund -- Revenue -- Nonlapsing.**

3781 (1) There is created a ~~[restricted]~~ special revenue fund within the Transportation Fund  
3782 known as the "Tollway ~~[Restricted]~~ Special Revenue Fund."

3783 (2) The fund shall be funded from the following sources:

3784 (a) tolls collected by the department under Section 72-6-118;

3785 (b) funds received by the department through a tollway development agreement under  
3786 Section 72-6-203;

3787 (c) appropriations made to the fund by the Legislature;

3788 (d) contributions from other public and private sources for deposit into the fund;

3789 (e) interest earnings on cash balances; and

3790 (f) ~~[all monies]~~ money collected for repayments and interest on fund ~~[monies]~~ money.

3791 (3) ~~[All monies]~~ Money appropriated to the fund ~~[are]~~ is nonlapsing.

3792 (4) The Division of Finance shall create a subaccount for each tollway as defined in  
3793 Section 72-6-118.

3794 (5) The commission may authorize the ~~[monies]~~ money deposited into the fund to be  
3795 spent by the department to establish and operate tollways and related facilities, including  
3796 design, construction, reconstruction, operation, maintenance, enforcement, impacts from  
3797 tollways, and the acquisition of right-of-way.

3798 Section 84. Section **72-2-121** is amended to read:

3799 **72-2-121. County of the First Class State Highway Projects Fund.**

3800 (1) There is created a special revenue fund ~~[entitled]~~ within the Transportation Fund  
3801 known as the "County of the First Class State Highway Projects Fund."

3802 (2) The fund consists of ~~[monies]~~ money generated from the following revenue  
3803 sources:

3804 (a) any voluntary contributions received for new construction, major renovations, and  
3805 improvements to state highways within a county of the first class;

3806 (b) the portion of the sales and use tax described in Subsection 59-12-502(5)(a)  
3807 deposited in or transferred to the fund;

3808 (c) the portion of the sales and use tax described in Subsection 59-12-1703(4)(a)(ii)  
3809 and required by Subsection 59-12-1703(7)(b)(ii) to be deposited in or transferred to the fund;

3810 and

3811 (d) a portion of the local option highway construction and transportation corridor  
3812 preservation fee imposed in a county of the first class under Section 41-1a-1222 deposited in or  
3813 transferred to the fund.

3814 (3) (a) The fund shall earn interest.

3815 (b) All interest earned on fund [~~monies~~] money shall be deposited into the fund.

3816 (4) The executive director shall use the fund [~~monies~~] money only:

3817 (a) to pay debt service and bond issuance costs for bonds issued under Sections  
3818 63B-16-102 and 63B-18-402;

3819 (b) for right-of-way acquisition, new construction, major renovations, and  
3820 improvements to state highways within a county of the first class and to pay any debt service  
3821 and bond issuance costs related to those projects;

3822 (c) for fiscal year 2008-09 only, to pay for or to provide funds to a municipality or  
3823 county to pay for right-of-way acquisition, construction, reconstruction, renovations, and  
3824 improvements to highways described in Subsection 63B-16-102(3); and

3825 (d) for fiscal year 2009-10 only, to pay for or to provide funds to a municipality or  
3826 county to pay for right-of-way acquisition, construction, reconstruction, renovations, and  
3827 improvements to highways described in Subsection 63B-18-402(2).

3828 (5) (a) For fiscal years beginning with fiscal year 2010-11 and ending with fiscal year  
3829 2012-13, the executive director shall use at least 20% of fund [~~monies~~] money available that  
3830 are not required to pay principal, interest, and issuance costs of bonds issued under Sections  
3831 63B-16-102 and 63B-18-402 to pay for:

3832 (i) east-west transportation route improvements in a county of the first class; and

3833 (ii) state highway capacity improvement and congestion mitigation projects in a county  
3834 of the first class.

3835 (b) For a fiscal year beginning on or after July 1, 2013, the executive director shall use  
3836 at least 25% of fund [~~monies~~] money available that [~~are~~] is not required to pay principal,  
3837 interest, and issuance costs of bonds issued under Sections 63B-16-102 and 63B-18-402 to pay  
3838 for:

3839 (i) east-west transportation route improvements in a county of the first class; and

3840 (ii) state highway capacity improvement and congestion mitigation projects in a county

3841 of the first class.

3842 (6) The revenues described in Subsections (2)(b), (c), and (d) that are deposited in the  
3843 fund and bond proceeds from bonds issued under Sections 63B-16-102 and 63B-18-402 are  
3844 considered a local matching contribution for the purposes described under Section 72-2-123.

3845 (7) The additional administrative costs of the department to administer this fund shall  
3846 be paid from [~~the monies~~] money in the fund.

3847 Section 85. Section **72-2-121.1** is amended to read:

3848 **72-2-121.1. Highway Projects Within Counties Fund -- Accounting for revenues**  
3849 **-- Interest -- Expenditure of revenues.**

3850 (1) There is created a special revenue fund within the Transportation Fund known as  
3851 the "Highway Projects Within Counties Fund."

3852 (2) The Highway Projects Within Counties Fund shall be funded by revenues generated  
3853 by a tax imposed by a county under Title 59, Chapter 12, Part 15, County Option Sales and Use  
3854 Tax for Highways, Fixed Guideways, or Systems for Public Transit Act, if those revenues are  
3855 allocated:

3856 (a) for a purpose described in Subsection 59-12-1503(2)(a)(iii); and

3857 (b) in accordance with Section 59-12-1503.

3858 (3) The department shall make a separate accounting for:

3859 (a) the revenues described in Subsection (2); and

3860 (b) each county for which revenues are deposited into the Highway Projects Within  
3861 Counties Fund.

3862 (4) (a) The Highway Projects Within Counties Fund shall earn interest.

3863 (b) The department shall allocate the interest earned on the State Highway Projects  
3864 Within Counties Fund:

3865 (i) proportionately;

3866 (ii) to each county's balance in the Highway Projects Within Counties Fund; and

3867 (iii) on the basis of each county's balance in the Highway Projects Within Counties  
3868 Fund.

3869 (5) (a) The department shall expend the revenues and interest deposited into the  
3870 Highway Projects Within Counties Fund to pay:

3871 (i) for a state highway project within the county:

- 3872 (A) described in Subsection 59-12-1503(2)(a)(iii)(A); and  
 3873 (B) for which the requirements of Subsection 59-12-1503(5) are met;  
 3874 (ii) debt service on a project described in Subsection (5)(a); or  
 3875 (iii) bond issuance costs relating to a project described in Subsection (5)(a).

3876 (b) (i) If a county legislative body submits a request to the department in writing, the  
 3877 department shall transfer revenues and interest deposited into the Highway Projects Within  
 3878 Counties Fund to the county legislative body to pay:

3879 (A) for a local highway of regional significance project described in Subsection  
 3880 59-12-1503(2)(a)(iii)(A);

3881 (B) debt service on a project described in Subsection (5)(b)(i)(A); or

3882 (C) bond issuance costs relating to a project described in Subsection (5)(b)(i)(A).

3883 (ii) The request submitted under Subsection (5)(b)(i) shall specify:

3884 (A) the amount of revenues requested for transfer; and

3885 (B) the local highway of regional significance project that the funds requested under  
 3886 this Subsection (5)(b) will be expended on.

3887 Section 86. Section **72-2-125** is amended to read:

3888 **72-2-125. Critical Highway Needs Fund.**

3889 (1) There is created a [~~restricted~~] special revenue fund [~~entitled~~] within the  
 3890 Transportation ~~\$\$\$~~ Investment ~~\$\$\$~~ Fund ~~\$\$\$~~ of 2005 known ~~\$\$\$~~ as the "Critical  
 3890a Highway Needs Fund."

3891 (2) The fund consists of [~~monies~~] money generated from the following sources:

3892 (a) any voluntary contributions received for the maintenance, construction,

3893 reconstruction, or renovation of state and federal highways;

3894 (b) appropriations made to the fund by the Legislature; and

3895 (c) the sales and use tax revenues deposited into the fund in accordance with Section  
 3896 59-12-103.

3897 (3) (a) The fund shall earn interest.

3898 (b) [~~All interest earned~~] Interest on fund [~~monies~~] money shall be deposited into the  
 3899 fund.

3900 (4) (a) The executive director shall use [~~monies~~] money deposited into the fund to pay:

3901 (i) the costs of right-of-way acquisition, maintenance, construction, reconstruction, or  
 3902 renovation to state and federal highways identified by the department and prioritized by the

3903 commission in accordance with this Subsection (4); and  
3904 (ii) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101.  
3905 (b) (i) The department shall:  
3906 (A) establish a complete list of projects to be maintained, constructed, reconstructed, or  
3907 renovated using the funding described in Subsection (4)(a) based on the following criteria:  
3908 (I) the highway construction project is a high priority project due to high growth in the  
3909 surrounding area;  
3910 (II) the highway construction project addresses critical access needs that have a high  
3911 impact due to commercial and energy development;  
3912 (III) the highway construction project mitigates congestion;  
3913 (IV) whether local matching funds are available for the highway construction project;  
3914 and  
3915 (V) the highway construction project is a critical alternative route for priority Interstate  
3916 15 reconstruction projects; and  
3917 (B) submit the list of projects to the commission for prioritization in accordance with  
3918 Subsection (4)(c).  
3919 (ii) A project that is included in the list under this Subsection (4):  
3920 (A) is not required to be currently listed in the statewide long-range plan; and  
3921 (B) is not required to be prioritized through the prioritization process for new  
3922 transportation capacity projects adopted under Section 72-1-304.  
3923 (c) (i) The commission shall prioritize the project list submitted by the department in  
3924 accordance with Subsection (4)(b).  
3925 (ii) For projects prioritized under this Subsection (4)(c), the commission shall give  
3926 priority consideration to fully funding a project that meets the criteria under Subsection  
3927 (4)(b)(i)(A)(V).  
3928 (d) (i) Expenditures of bond proceeds issued in accordance with Section 63B-16-101  
3929 by the department for the construction of highway projects prioritized under this Subsection (4)  
3930 may not exceed \$1,200,000,000.  
3931 (ii) [~~Monies~~] Money expended from the fund for principal, interest, and issuance costs  
3932 of bonds issued under Section 63B-16-101 [~~are~~] is not considered [~~expenditures~~] an  
3933 expenditure for purposes of the \$1,200,000,000 cap under Subsection (4)(d)(i).

3934 (e) (i) Before bonds authorized by Section 63B-16-101 may be issued in any fiscal  
3935 year, the department and the commission shall appear before the Executive Appropriations  
3936 Committee of the Legislature and present:

3937 (A) the commission's current list of projects established and prioritized in accordance  
3938 with this Subsection (4); and

3939 (B) the amount of bond proceeds that the department needs to provide funding for  
3940 projects on the project list prioritized in accordance with this Subsection (4) for the next fiscal  
3941 year.

3942 (ii) The Executive Appropriations Committee of the Legislature shall review and  
3943 comment on the prioritized project list and the amount of bond proceeds needed to fund the  
3944 projects on the prioritized list.

3945 (f) The Division of Finance shall, from [~~monies~~] money deposited into the fund,  
3946 transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds  
3947 authorized by Section 63B-16-101 in the current fiscal year to the appropriate debt service or  
3948 sinking fund.

3949 (5) When the general obligation bonds authorized by Section 63B-16-101 have been  
3950 paid off and the highway projects completed that are included in the prioritized project list  
3951 under Subsection (4), the Division of Finance shall transfer any existing balance in the fund  
3952 into the Transportation Investment Fund of 2005 created by Section 72-2-124.

3953 (6) (a) The Division of Finance shall monitor the general obligation bonds authorized  
3954 by Section 63B-16-101.

3955 (b) The department shall monitor the highway construction or reconstruction projects  
3956 that are included in the prioritized project list under Subsection (4).

3957 (c) Upon request by the Executive Appropriations Committee of the Legislature:

3958 (i) the Division of Finance shall report to the committee the status of all general  
3959 obligation bonds issued under Section 63B-16-101; and

3960 (ii) the department shall report to the committee the status of all highway construction  
3961 or reconstruction projects that are included in the prioritized project list under Subsection (4).

3962 (d) When the Division of Finance has reported that the general obligation bonds issued  
3963 by Section 63B-16-101 have been paid off and the department has reported that projects  
3964 included in the prioritized project list are complete to the Executive Appropriations Committee

3965 of the Legislature, the Division of Finance shall transfer any existing fund balance in  
3966 accordance with Subsection (5).

3967 (7) (a) Unless prioritized and approved by the Transportation Commission, the  
3968 department may not delay a project prioritized under this section to a different fiscal year than  
3969 programmed by the commission due to an unavoidable shortfall in revenues if:

3970 (i) the prioritized project was funded by the Legislature in an appropriations act; or

3971 (ii) general obligation bond proceeds have been issued for the project in the current  
3972 fiscal year.

3973 (b) For projects identified under Subsection (7)(a), the commission shall prioritize and  
3974 approve any project delays for projects prioritized under this section due to an unavoidable  
3975 shortfall in revenues if:

3976 (i) the prioritized project was funded by the Legislature in an appropriations act; or

3977 (ii) general obligation bond proceeds have been issued for the project in the current  
3978 fiscal year.

3979 Section 87. Section **72-6-118** is amended to read:

3980 **72-6-118. Definitions -- Establishment and operation of tollways -- Imposition**  
3981 **and collection of tolls -- Amount of tolls -- Rulemaking.**

3982 (1) As used in this section:

3983 (a) "High occupancy toll lane" means a high occupancy vehicle lane designated under  
3984 Section 41-6a-702 that may be used by an operator of a vehicle carrying less than the number  
3985 of persons specified for the high occupancy vehicle lane if the operator of the vehicle pays a  
3986 toll or fee.

3987 (b) "Toll" means any tax, fee, or charge assessed for the specific use of a tollway.

3988 (c) "Toll lane" means a designated new highway or additional lane capacity that is  
3989 constructed, operated, or maintained for which a toll is charged for its use.

3990 (d) (i) "Tollway" means a highway, highway lane, bridge, path, tunnel, or right-of-way  
3991 designed and used as a transportation route that is constructed, operated, or maintained through  
3992 the use of toll revenues.

3993 (ii) "Tollway" includes a high occupancy toll lane and a toll lane.

3994 (e) "Tollway development agreement" has the same meaning as defined in Section  
3995 72-6-202.

3996 (2) Subject to the provisions of Subsection (3), the department may:  
3997 (a) establish, expand, and operate tollways and related facilities for the purpose of  
3998 funding in whole or in part the acquisition of right-of-way and the design, construction,  
3999 reconstruction, operation, enforcement, and maintenance of or impacts from a transportation  
4000 route for use by the public;  
4001 (b) enter into contracts, agreements, licenses, franchises, tollway development  
4002 agreements, or other arrangements to implement this section;  
4003 (c) impose and collect tolls on any tollway established under this section; and  
4004 (d) grant exclusive or nonexclusive rights to a private entity to impose and collect tolls  
4005 pursuant to the terms and conditions of a tollway development agreement.  
4006 (3) (a) Except as provided under Subsection (3)(d), the department or other entity may  
4007 not establish or operate a tollway on an existing state highway, except as approved by the  
4008 commission and the Legislature.  
4009 (b) Between sessions of the Legislature, a state tollway may be designated or deleted if:  
4010 (i) approved by the commission in accordance with the standards made under this  
4011 section; and  
4012 (ii) the tollways are submitted to the Legislature in the next year for legislative  
4013 approval or disapproval.  
4014 (c) In conjunction with a proposal submitted under Subsection (3)(b)(ii), the  
4015 department shall provide a description of the tollway project, projected traffic, the anticipated  
4016 amount of tolls to be charged, and projected toll revenue.  
4017 (d) If approved by the commission, the department may:  
4018 (i) establish high occupancy toll lanes on existing state highways; and  
4019 (ii) establish tollways on new state highways or additional capacity lanes.  
4020 (4) (a) Except as provided in Subsection (4)(b), in accordance with Title 63G, Chapter  
4021 3, Utah Administrative Rulemaking Act, the commission shall:  
4022 (i) set the amount of any toll imposed or collected on a tollway on a state highway; and  
4023 (ii) for tolls established under Subsection (4)(b), set:  
4024 (A) an increase in a toll rate or user fee above an increase specified in a tollway  
4025 development agreement; or  
4026 (B) an increase in a toll rate or user fee above a maximum toll rate specified in a

4027 tollway development agreement.

4028 (b) A toll or user fee and an increase to a toll or user fee imposed or collected on a  
4029 tollway on a state highway that is the subject of a tollway development agreement shall be set  
4030 in the tollway development agreement.

4031 (5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
4032 the department shall make rules:

4033 (i) necessary to establish and operate tollways on state highways; and

4034 (ii) that establish standards and specifications for automatic tolling systems.

4035 (b) The rules shall:

4036 (i) include minimum criteria for having a tollway; and

4037 (ii) conform to regional and national standards for automatic tolling.

4038 (6) (a) The commission may provide funds for public or private tollway pilot projects  
4039 or high occupancy toll lanes from General Fund monies appropriated by the Legislature to the  
4040 commission for that purpose.

4041 (b) The commission may determine priorities and funding levels for tollways  
4042 designated under this section.

4043 (7) (a) Except as provided in Subsection (7)(b), all revenue generated from a tollway  
4044 on a state highway shall be deposited into the Tollway [~~Restricted~~] Special Revenue Fund  
4045 created in Section 72-2-120 and used for acquisition of right-of-way and the design,  
4046 construction, reconstruction, operation, maintenance, enforcement of transportation facilities,  
4047 and other facilities used exclusively for the operation of a tollway facility within the corridor  
4048 served by the tollway.

4049 (b) Revenue generated from a tollway that is the subject of a tollway development  
4050 agreement shall be deposited into the Tollway [~~Restricted~~] Special Revenue Fund and used in  
4051 accordance with Subsection (7)(a) unless:

4052 (i) the revenue is to a private entity through the tollway development agreement; or

4053 (ii) the revenue is identified for a different purpose under the tollway development  
4054 agreement.

4055 Section 88. Section **76-7-317.1** is amended to read:

4056 **76-7-317.1. Abortion Litigation Account.**

4057 (1) As used in this section, "account" means the Abortion Litigation [~~Trust~~] Account

4058 created in this section.

4059 (2) There is created [~~in the General Fund~~] a restricted account within the General Fund  
4060 known as the "Abortion Litigation [~~Trust~~] Account."

4061 (3) The Division of Finance may accept, for deposit in the restricted account, grants,  
4062 gifts, bequests, or any money made available from any private sources for the purpose  
4063 described in Subsection (4).

4064 (4) Except as provided in Subsection (9), money deposited into the restricted account  
4065 on or after May 12, 2009, shall be retained in the account for the purpose of paying litigation  
4066 and appellate expenses of the Office of the Attorney General, including any court-ordered  
4067 payment of plaintiff's attorney fees, to defend any law passed by the Legislature on or after  
4068 January 1, 2009, that:

4069 (a) challenges the legal concept that a woman has a constitutional right to an abortion;  
4070 or

4071 (b) places a restriction on the right to an abortion.

4072 (5) Money shall be appropriated by the Legislature from the account to the Office of  
4073 the Attorney General under Title 63J, Chapter 1, Budgetary Procedures Act.

4074 (6) The restricted account may be used only for costs, expenses, and attorney fees  
4075 connected with the defense of an abortion law described in Subsection (4).

4076 (7) Any funds in the restricted account on May 11, 2009, shall be first used to offset  
4077 [~~the monies~~] money expended by the state in connection with litigation regarding Senate Bill  
4078 23, passed in the 1991 General Session.

4079 (8) Any funds described in Subsection (7) that are not needed to offset the [~~monies~~]  
4080 money expended by the state in connection with litigation regarding Senate Bill 23, passed in  
4081 the 1991 General Session, shall be retained in the account for the purpose described in  
4082 Subsection (4).

4083 (9) (a) If the Legislature does not pass a law described in Subsection (4) on or before  
4084 July 1, 2014, the funds in the restricted account shall be used by the Division of Child and  
4085 Family Services, within the Department of Human Services, for adoption assistance.

4086 (b) If, on or before July 1, 2014, the Legislature passes a law described in Subsection  
4087 (4), any funds remaining in the restricted account after the litigation and appellate expenses to  
4088 defend the law are paid shall be used by the Division of Child and Family Services, within the

4089 Department of Human Services, for adoption assistance.

4090 Section 89. Section **78A-2-301** is amended to read:

4091 **78A-2-301. Civil fees of the courts of record -- Courts complex design.**

4092 (1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a  
4093 court of record not governed by another subsection is \$360.

4094 (b) The fee for filing a complaint or petition is:

4095 (i) \$75 if the claim for damages or amount in interpleader exclusive of court costs,  
4096 interest, and attorney fees is \$2,000 or less;

4097 (ii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,  
4098 interest, and attorney fees is greater than \$2,000 and less than \$10,000;

4099 (iii) \$360 if the claim for damages or amount in interpleader is \$10,000 or more;

4100 (iv) \$310 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter  
4101 4, Separate Maintenance; and

4102 (v) \$35 for a motion for temporary separation order filed under Section 30-3-4.5.

4103 (c) The fee for filing a small claims affidavit is:

4104 (i) \$60 if the claim for damages or amount in interpleader exclusive of court costs,  
4105 interest, and attorney fees is \$2,000 or less;

4106 (ii) \$100 if the claim for damages or amount in interpleader exclusive of court costs,  
4107 interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

4108 (iii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,  
4109 interest, and attorney fees is \$7,500 or more.

4110 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party  
4111 complaint, or other claim for relief against an existing or joined party other than the original  
4112 complaint or petition is:

4113 (i) \$55 if the claim for relief exclusive of court costs, interest, and attorney fees is  
4114 \$2,000 or less;

4115 (ii) \$150 if the claim for relief exclusive of court costs, interest, and attorney fees is  
4116 greater than \$2,000 and less than \$10,000;

4117 (iii) \$155 if the original petition is filed under Subsection (1)(a), the claim for relief is  
4118 \$10,000 or more, or the party seeks relief other than monetary damages; and

4119 (iv) \$115 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30,

4120 Chapter 4, Separate Maintenance.

4121 (e) The fee for filing a small claims counter affidavit is:

4122 (i) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is  
4123 \$2,000 or less;

4124 (ii) \$70 if the claim for relief exclusive of court costs, interest, and attorney fees is  
4125 greater than \$2,000, but less than \$7,500;

4126 (iii) \$120 if the claim for relief exclusive of court costs, interest, and attorney fees is  
4127 \$7,500 or more.

4128 (f) The fee for depositing funds under Section 57-1-29 when not associated with an  
4129 action already before the court is determined under Subsection (1)(b) based on the amount  
4130 deposited.

4131 (g) The fee for filing a petition is:

4132 (i) \$225 for trial de novo of an adjudication of the justice court or of the small claims  
4133 department; and

4134 (ii) \$65 for an appeal of a municipal administrative determination in accordance with  
4135 Section 10-3-703.7.

4136 (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or  
4137 petition for writ of certiorari is \$225.

4138 (i) (i) Except for a petition filed under Subsection 77-18-10(2), the fee for filing a  
4139 petition for expungement is \$135.

4140 (ii) There is no fee for a petition filed under Subsection 77-18-10(2).

4141 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be  
4142 allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges'  
4143 Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges'  
4144 Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement  
4145 Act.

4146 (ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be  
4147 allocated by the state treasurer to be deposited in the restricted account, Children's Legal  
4148 Defense Account, as provided in Section 51-9-408.

4149 (iii) Three dollars of the fees established under Subsections (1)(a) through (e), (1)(g),  
4150 and (1)(r) shall be allocated to and deposited with the Dispute Resolution ~~Fund~~ Account as

4151 provided in Section 78B-6-209.

4152 (iv) Fifteen dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv),  
4153 (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be  
4154 deposited in the restricted account, Court Security Account, as provided in Section 78A-2-602.

4155 (v) Five dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and  
4156 (1)(g)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court  
4157 Security Account, as provided in Section 78A-2-602.

4158 (k) The fee for filing a judgment, order, or decree of a court of another state or of the  
4159 United States is \$35.

4160 (l) The fee for filing probate or child custody documents from another state is \$35.

4161 (m) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the  
4162 Utah State Tax Commission is \$30.

4163 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this state  
4164 or a judgment, order, or decree of an administrative agency, commission, board, council, or  
4165 hearing officer of this state or of its political subdivisions other than the Utah State Tax  
4166 Commission, is \$50.

4167 (n) The fee for filing a judgment by confession without action under Section  
4168 78B-5-205 is \$35.

4169 (o) The fee for filing an award of arbitration for confirmation, modification, or  
4170 vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an  
4171 action before the court is \$35.

4172 (p) The fee for filing a petition or counter-petition to modify a decree of divorce is  
4173 \$100.

4174 (q) The fee for filing any accounting required by law is:

4175 (i) \$15 for an estate valued at \$50,000 or less;

4176 (ii) \$30 for an estate valued at \$75,000 or less but more than \$50,000;

4177 (iii) \$50 for an estate valued at \$112,000 or less but more than \$75,000;

4178 (iv) \$90 for an estate valued at \$168,000 or less but more than \$112,000; and

4179 (v) \$175 for an estate valued at more than \$168,000.

4180 (r) The fee for filing a demand for a civil jury is \$250.

4181 (s) The fee for filing a notice of deposition in this state concerning an action pending in

4182 another state under Utah Rule of Civil Procedure 26 is \$35.

4183 (t) The fee for filing documents that require judicial approval but are not part of an  
4184 action before the court is \$35.

4185 (u) The fee for a petition to open a sealed record is \$35.

4186 (v) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in  
4187 addition to any fee for a complaint or petition.

4188 (w) (i) The fee for a petition for authorization for a minor to marry required by Section  
4189 30-1-9 is \$5.

4190 (ii) The fee for a petition for emancipation of a minor provided in Title 78A, Chapter 6,  
4191 Part 8, Emancipation, is \$50.

4192 (x) The fee for a certificate issued under Section 26-2-25 is \$8.

4193 (y) The fee for a certified copy of a document is \$4 per document plus 50 cents per  
4194 page.

4195 (z) The fee for an exemplified copy of a document is \$6 per document plus 50 cents  
4196 per page.

4197 (aa) The Judicial Council shall by rule establish a schedule of fees for copies of  
4198 documents and forms and for the search and retrieval of records under Title 63G, Chapter 2,  
4199 Government Records Access and Management Act. Fees under this Subsection (1)(aa) shall be  
4200 credited to the court as a reimbursement of expenditures.

4201 (bb) There is no fee for services or the filing of documents not listed in this section or  
4202 otherwise provided by law.

4203 (cc) Except as provided in this section, all fees collected under this section are paid to  
4204 the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk  
4205 accepts the pleading for filing or performs the requested service.

4206 (dd) The filing fees under this section may not be charged to the state, its agencies, or  
4207 political subdivisions filing or defending any action. In judgments awarded in favor of the  
4208 state, its agencies, or political subdivisions, except the Office of Recovery Services, the court  
4209 shall order the filing fees and collection costs to be paid by the judgment debtor. The sums  
4210 collected under this Subsection (1)(dd) shall be applied to the fees after credit to the judgment,  
4211 order, fine, tax, lien, or other penalty and costs permitted by law.

4212 (2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts

4213 shall transfer all revenues representing the difference between the fees in effect after May 2,  
4214 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of  
4215 Facilities Construction and Management Capital Projects Fund.

4216 (ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities  
4217 Construction and Management shall use up to \$3,750,000 of the revenue deposited in the  
4218 Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to  
4219 initiate the development of a courts complex in Salt Lake City.

4220 (B) If the Legislature approves funding for construction of a courts complex in Salt  
4221 Lake City in the 1995 Annual General Session, the Division of Facilities Construction and  
4222 Management shall use the revenue deposited in the Capital Projects Fund under this Subsection  
4223 (2)(a)(ii) to construct a courts complex in Salt Lake City.

4224 (C) After the courts complex is completed and all bills connected with its construction  
4225 have been paid, the Division of Facilities Construction and Management shall use any monies  
4226 remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal  
4227 District Court building.

4228 (iii) The Division of Facilities Construction and Management may enter into  
4229 agreements and make expenditures related to this project before the receipt of revenues  
4230 provided for under this Subsection (2)(a)(iii).

4231 (iv) The Division of Facilities Construction and Management shall:

4232 (A) make those expenditures from unexpended and unencumbered building funds  
4233 already appropriated to the Capital Projects Fund; and

4234 (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for  
4235 under this Subsection (2).

4236 (b) After June 30, 1998, the administrator of the courts shall ensure that all revenues  
4237 representing the difference between the fees in effect after May 2, 1994, and the fees in effect  
4238 before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted  
4239 account.

4240 (c) The Division of Finance shall deposit all revenues received from the court  
4241 administrator into the restricted account created by this section.

4242 (d) (i) From May 1, 1995 until June 30, 1998, the administrator of the courts shall  
4243 transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor

4244 Vehicles, in a court of record to the Division of Facilities Construction and Management  
 4245 Capital Projects Fund. The division of money pursuant to Section 78A-5-110 shall be  
 4246 calculated on the balance of the fine or bail forfeiture paid.

4247 (ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer  
 4248 \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in  
 4249 a court of record to the Division of Finance for deposit in the restricted account created by this  
 4250 section. The division of money pursuant to Section 78A-5-110 shall be calculated on the  
 4251 balance of the fine or bail forfeiture paid.

4252 (3) (a) There is created within the General Fund a restricted account known as the State  
 4253 Courts Complex Account.

4254 (b) The Legislature may appropriate monies from the restricted account to the  
 4255 administrator of the courts for the following purposes only:

4256 (i) to repay costs associated with the construction of the court complex that were  
 4257 funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

4258 (ii) to cover operations and maintenance costs on the court complex.

4259 Section 90. Section **78B-6-209** is amended to read:

4260 **78B-6-209. Dispute Resolution Restricted Account -- Appropriation.**

4261 There is created [~~within the General Fund~~] a restricted account within the General Fund  
 4262 known as the "Dispute Resolution [~~Fund~~] Account." Three dollars of the fees established in  
 4263 Subsections 78A-2-301(1)(a) through (e), (1)(g), and (1)(r) shall be allocated to and deposited  
 4264 in the [~~fund~~] restricted account. The Legislature shall annually appropriate money from the  
 4265 Dispute Resolution [~~Fund~~] Account to the Administrative Office of the Courts to implement  
 4266 the purposes of the Alternative Dispute Resolution Act.

4267 Section 91. **Repealer.**

4268 This bill repeals:

4269 Section **63M-5-202, Prepaid Sales and Use Tax Construction Account -- Use of**  
 4270 **account funds.**

4270a1 **Ĥ→ Section 92. Effective date.**

4270a2 **(1) If approved by two-thirds of all the members elected to each house, the amendments**  
 4270a3 **to Section 26-9-4 take effect upon approval by the governor, or the day following the**  
 4270a4 **constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's**  
 4270a5 **signature, or in the case of a veto, the date of veto override.**

4270a6 **(2) Except as provided in Subsection (1), this bill takes effect on May 11, 2010. ←Ĥ**  
 4270a **Š→ Section Ĥ→ [92] 93 ←Ĥ . Coordinating S.B. 191 with S.B. 123 -- Technical amendments.**

4270b **If this S.B. 191 and S.B. 123, Motion Picture Incentive Fund Amendments, both pass, it**  
 4270c **is the intent of the Legislature that the Office of Legislative Research and General shall**  
 4270d **prepare the Utah Code database for publication by:**

4270e **(1) amending Subsection 63M-1-1803(1) to read as follows: ←Š**

4270f **§→** " (1) (a) There is created within the General Fund a restricted account known as the  
 4270g Motion Picture Incentive ~~[Fund]~~ Account , which shall be used to provide cash rebate  
 4270h incentives for:

4270i (i) within-the-state production of television series[,];  
 4270j (ii) made-for-television movies[,]; and  
 4270k (iii) motion pictures, including feature films and independent films.

4270l (b) All interest generated from investment of money in the ~~[fund]~~ restricted  
 4270m account shall be deposited in the ~~[fund]~~ restricted account .

4270n (c) The ~~[fund]~~ restricted account shall consist of an annual appropriation by the  
 4270o Legislature.

4270p (d) The ~~[Division of Finance]~~ office shall:

4270q (i) with the advice of the board, administer the [fund] restricted account ; and  
 4270r (ii) make payments from the [account] [fund] restricted account as required under  
 4270s this section. "; and

4270t (2) amending Subsection 63M-1-1803(2)(g) to read:

4270u " (g) Subject to Subsection (3), if the incentive is in the form of a cash rebate, the office  
 4270v shall ~~[submit to the Division of Finance:]~~ pay the incentive from the {[fund] restricted account to the  
 4270w motion picture company, notwithstanding Subsections 51-5-3(23)(b) and 63J-1-104(4)(c). " ←**§**

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**Legislative Review Note**  
as of 2-22-10 4:44 PM

**Office of Legislative Research and General Counsel**

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**S.B. 191 - Governmental Accounting Amendments - As Amended**

**Fiscal Note**

2010 General Session  
State of Utah

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**State Impact**

Enactment of this bill will result in revenue to the General Fund of \$84,000 in fiscal year 2010, and \$336,200 in fiscal year 2011.

	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2011</u> <u>Approp.</u>	<u>FY 2012</u> <u>Approp.</u>	<u>FY 2010</u> <u>Revenue</u>	<u>FY 2011</u> <u>Revenue</u>	<u>FY 2012</u> <u>Revenue</u>
General Fund	\$0	\$0	\$0	\$0	\$336,200	\$336,200
General Fund, One-Time	\$0	\$0	\$0	\$84,000	\$0	\$0
<b>Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$84,000</b>	<b>\$336,200</b>	<b>\$336,200</b>

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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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