

1 **REVISOR'S STATUTE**

2 2012 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Scott K. Jenkins**

5 House Sponsor: Jeremy A. Peterson

6

LONG TITLE

7 **General Description:**

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9 eliminating references to repealed provisions, making minor wording changes, updating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

11 **Highlighted Provisions:**

12 This bill:

13

- 14 ▶ modifies parts of the Utah Code to make technical corrections, including
- 15 eliminating references to repealed provisions, making minor wording changes,
- 16 updating cross references, correcting numbering, and fixing errors that were created
- 17 from the previous year's session.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **13-32a-109**, as last amended by Laws of Utah 2011, Chapter 348

25 **16-10a-740**, as last amended by Laws of Utah 2000, Chapter 130

26 **17D-2-602**, as enacted by Laws of Utah 2008, Chapter 360

27 **19-2-109.1**, as last amended by Laws of Utah 2011, Chapter 297



28 **20A-7-402**, as last amended by Laws of Utah 2011, Chapter 335
29 **20A-11-103**, as last amended by Laws of Utah 2011, Chapters 17 and 396
30 **20A-16-406**, as renumbered and amended by Laws of Utah 2011, Chapter 327
31 **20A-16-502**, as enacted by Laws of Utah 2011, Chapter 327
32 **26-18-4**, as last amended by Laws of Utah 2011, Chapter 297
33 **26-18-10**, as last amended by Laws of Utah 2011, Chapter 297
34 **26-40-103**, as last amended by Laws of Utah 2008, Chapters 62 and 382
35 **31A-8-501**, as last amended by Laws of Utah 2009, Chapter 12
36 **32B-3-203**, as enacted by Laws of Utah 2010, Chapter 276
37 **32B-10-604**, as enacted by Laws of Utah 2010, Chapter 276
38 **34-32-1.1**, as last amended by Laws of Utah 2007, Chapter 329
39 **34A-2-704**, as last amended by Laws of Utah 2011, Chapter 342
40 **34A-5-104**, as last amended by Laws of Utah 1999, Chapter 161
41 **35A-4-312**, as last amended by Laws of Utah 2011, Chapter 59
42 **36-12-15.1**, as enacted by Laws of Utah 2011, Chapter 257
43 **38-1-32.5**, as enacted by Laws of Utah 2011, Chapter 299
44 **39-1-21**, as last amended by Laws of Utah 2011, Chapter 336
45 **53A-17a-123**, as last amended by Laws of Utah 2010, Chapter 3
46 **57-8-7.5**, as last amended by Laws of Utah 2011, Chapter 134
47 **57-8a-106**, as enacted by Laws of Utah 2011, Chapter 255
48 **57-8a-211**, as last amended by Laws of Utah 2011, Chapter 134
49 **57-8a-405**, as enacted by Laws of Utah 2011, Chapter 355
50 **58-54-302**, as renumbered and amended by Laws of Utah 2011, Chapter 61
51 **58-54-305**, as renumbered and amended by Laws of Utah 2011, Chapter 61
52 **58-67-503**, as last amended by Laws of Utah 2011, Chapter 214
53 **58-68-402**, as repealed and reenacted by Laws of Utah 2011, Chapter 214
54 **58-68-503**, as last amended by Laws of Utah 2011, Chapter 214
55 **59-2-1102**, as last amended by Laws of Utah 2008, Chapter 382
56 **59-7-102**, as last amended by Laws of Utah 2009, Chapter 312
57 **59-10-1310**, as renumbered and amended by Laws of Utah 2008, Chapter 389
58 **59-12-301**, as last amended by Laws of Utah 2008, Chapter 382

- 59 **59-13-102**, as last amended by Laws of Utah 2011, Chapter 259
- 60 **61-1-106**, as enacted by Laws of Utah 2011, Chapter 318
- 61 **61-2c-402**, as last amended by Laws of Utah 2011, Chapter 289
- 62 **61-2e-402**, as last amended by Laws of Utah 2011, Chapter 289
- 63 **61-2f-404**, as renumbered and amended by Laws of Utah 2010, Chapter 379
- 64 **61-2g-502**, as renumbered and amended by Laws of Utah 2011, Chapter 289
- 65 **62A-5-104**, as last amended by Laws of Utah 2011, Chapter 366
- 66 **62A-11-104**, as last amended by Laws of Utah 2010, Chapter 65
- 67 **63A-2-401**, as last amended by Laws of Utah 2011, Chapters 131, 270 and renumbered
- 68 and amended by Laws of Utah 2011, Chapter 207
- 69 **63C-4-106**, as enacted by Laws of Utah 2011, Chapter 252
- 70 **63E-1-102**, as last amended by Laws of Utah 2011, Chapter 370
- 71 **63F-1-303**, as enacted by Laws of Utah 2005, Chapter 169
- 72 **63G-2-103**, as last amended by Laws of Utah 2011, Chapter 46
- 73 **63G-2-702**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 74 **63G-12-103**, as enacted by Laws of Utah 2011, Chapter 18
- 75 **63G-12-402**, as last amended by Laws of Utah 2011, Chapter 413 and renumbered and
- 76 amended by Laws of Utah 2011, Chapter 18
- 77 **63I-1-253**, as last amended by Laws of Utah 2011, Chapters 199, 252, 369, and 371
- 78 **63I-1-263**, as last amended by Laws of Utah 2011, Chapters 199, 370, 408, and 411
- 79 **63I-1-278**, as last amended by Laws of Utah 2010, Chapter 66
- 80 **63I-2-204**, as enacted by Laws of Utah 2009, Chapter 17
- 81 **63I-2-223**, as last amended by Laws of Utah 2009, Chapter 17
- 82 **63I-2-258**, as last amended by Laws of Utah 2008, Chapters 214, 365 and renumbered
- 83 and amended by Laws of Utah 2008, Chapter 382
- 84 **63I-2-263**, as last amended by Laws of Utah 2011, Chapters 151 and 173
- 85 **63J-8-102**, as enacted by Laws of Utah 2011, Chapter 49
- 86 **63J-8-104**, as enacted by Laws of Utah 2011, Chapter 49
- 87 **63M-7-502**, as last amended by Laws of Utah 2011, Chapters 131 and 320
- 88 **64-13-42**, as last amended by Laws of Utah 2009, Chapter 258
- 89 **67-5-12**, as last amended by Laws of Utah 2007, Chapter 166

- 90 **67-22-2**, as last amended by Laws of Utah 2009, Chapter 369
- 91 **69-2-2**, as last amended by Laws of Utah 2010, Chapter 307
- 92 **72-6-302**, as enacted by Laws of Utah 2011, Chapter 256
- 93 **76-8-401**, as last amended by Laws of Utah 2011, Chapter 342
- 94 **78A-6-1104**, as last amended by Laws of Utah 2011, Chapters 89 and 177

95 REPEALS:

- 96 **31A-42a-103 (Effective 01/01/13)**, as enacted by Laws of Utah 2010, Chapter 68
- 97 **53A-25-106**, as enacted by Laws of Utah 1988, Chapter 2
- 98 **63G-11-101**, as enacted by Laws of Utah 2008, Chapter 26



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

101 Section 1. Section **13-32a-109** is amended to read:

102 **13-32a-109. Holding period for articles.**

103 (1) (a) The pawnbroker may sell any article pawned to the pawnbroker:

104 (i) after the expiration of the contract period between the pawnbroker and the pledgor;

105 and

106 (ii) if the pawnbroker has complied with the requirements of Section 13-32a-106
107 regarding reporting to the central database and Section 13-32a-103.

108 (b) If an article, including scrap jewelry, is purchased by a pawn or secondhand
109 business or a coin dealer, the pawn or secondhand business or coin dealer may sell the article
110 after the pawn or secondhand business or coin dealer has held the article for 15 days and
111 complied with the requirements of Section 13-32a-106 regarding reporting to the central
112 database and Section 13-32a-103, except that pawn, secondhand, and coin dealer businesses are
113 not required to hold precious metals or coins under this Subsection (1)(b).

114 (c) This Subsection (1) does not preclude a law enforcement agency from requiring a
115 pawn or secondhand business to hold an article if necessary in the course of an investigation.

116 (i) If the article was pawned, the law enforcement agency may require the article be
117 held beyond the terms of the contract between the pledgor and the pawn broker.

118 (ii) If the article was sold to the pawn or secondhand business, the law enforcement
119 agency may require the article be held if the pawn or secondhand business has not sold the
120 article.

121 (d) If the law enforcement agency requesting a hold on property under this Subsection
122 (1) is not the local law enforcement agency, the requesting law enforcement agency shall notify
123 the local law enforcement agency of the request and also the pawn or secondhand business.

124 (2) If a law enforcement agency requires the pawn or secondhand business to hold an
125 article as part of an investigation, the agency shall provide to the pawn or secondhand business
126 a hold ticket issued by the agency, which:

127 (a) states the active case number;

128 (b) confirms the date of the hold request and the article to be held; and

129 (c) facilitates the ability of the pawn or secondhand business to track the article when
130 the prosecution takes over the case.

131 (3) If an article is not seized by a law enforcement agency that has placed a hold on the
132 property, the property shall remain in the custody of the pawn or secondhand business until
133 further disposition by the law enforcement agency, and as consistent with this chapter.

134 (4) The initial hold by a law enforcement agency is for a period of 90 days. If the
135 article is not seized by the law enforcement agency, the article shall remain in the custody of
136 the pawn or secondhand business and is subject to the hold unless exigent circumstances
137 require the purchased or pawned article to be seized by the law enforcement agency.

138 (5) (a) A law enforcement agency may extend any hold for up to an additional 90 days
139 when exigent circumstances require the extension.

140 (b) When there is an extension of a hold under Subsection (5)(a), the requesting law
141 enforcement agency shall notify the pawn or secondhand business that is subject to the hold
142 prior to the expiration of the initial 90 days.

143 (c) A law enforcement agency may not hold an item for more than the 180 days
144 allowed under Subsections (5)(a) and (b) without obtaining a court order authorizing the hold.

145 (6) A hold on an article under Subsection (2) takes precedence over any request to
146 claim or purchase the article subject to the hold.

147 (7) When the purpose for the hold on or seizure of an article is terminated, the law
148 enforcement agency requiring the hold or seizure shall within 15 days after the termination:

149 (a) notify the pawn or secondhand business in writing that the hold or seizure has been
150 terminated;

151 (b) return the article subject to the seizure to the pawn or secondhand business; or

152 (c) if the article is not returned to the pawn or secondhand business, advise the pawn or
153 secondhand business either in writing or electronically of the specific alternative disposition of
154 the article.

155 (8) If the law enforcement agency does not notify the pawn or secondhand business
156 that a hold on an item has expired, the pawn or secondhand business shall send a letter by
157 registered or certified [~~United States~~] mail to the law enforcement agency that ordered the hold
158 and inform the agency that the holding period has expired. The law enforcement agency shall
159 respond within 30 days by:

160 (a) confirming that the holding period has expired and that the pawn or secondhand
161 business may manage the item as if acquired in the ordinary course of business; or

162 (b) providing written notice to the pawn or secondhand business that a court order has
163 continued the period of time for which the item shall be held.

164 (9) The written notice under Subsection (8)(b) is considered provided when:

165 (a) personally delivered to the pawn or secondhand business with a signed receipt of
166 delivery;

167 (b) delivered to the pawn or secondhand business by registered or certified [~~United~~
168 ~~States~~] mail; or

169 (c) delivered by any other means with the mutual assent of the law enforcement agency
170 and the pawn or secondhand business.

171 (10) If the law enforcement agency does not respond within 30 days under Subsection
172 (8), the pawn or secondhand business may manage the item as if acquired in the ordinary
173 course of business.

174 Section 2. Section **16-10a-740** is amended to read:

175 **16-10a-740. Procedure in derivative proceedings.**

176 (1) As used in this section:

177 (a) "derivative proceeding" means a civil suit in the right of:

178 (i) a domestic corporation; or

179 (ii) to the extent provided in Subsection (7), a foreign corporation; and

180 (b) "shareholder" includes a beneficial owner whose shares are held:

181 (i) in a voting trust; or

182 (ii) by a nominee on the beneficial owner's behalf.

183 (2) A shareholder may not commence or maintain a derivative proceeding unless the
184 shareholder:

185 (a) (i) was a shareholder of the corporation at the time of the act or omission
186 complained of; or

187 (ii) became a shareholder through transfer by operation of law from one who was a
188 shareholder at the time of the act or omission complained of; and

189 (b) fairly and adequately represents the interests of the corporation in enforcing the
190 right of the corporation.

191 (3) (a) A shareholder may not commence a derivative proceeding until:

192 (i) a written demand has been made upon the corporation to take suitable action; and

193 (ii) 90 days have expired from the date the demand described in Subsection (3)(a)(i) is
194 made unless:

195 (A) the shareholder is notified before the 90 days have expired that the demand has
196 been rejected by the corporation; or

197 (B) irreparable injury to the corporation would result by waiting for the expiration of
198 the 90-day period.

199 (b) A complaint in a derivative proceeding shall be:

200 (i) verified; and

201 (ii) allege with particularity the demand made to obtain action by the board of
202 directors.

203 (c) A derivative proceeding shall comply with the procedures of Utah Rules of Civil
204 Procedure, Rule ~~[23.1]~~ 23A.

205 (d) The court shall stay any derivative proceeding until the inquiry is completed and for
206 such additional period as the court considers appropriate if:

207 (i) the corporation commences an inquiry into the allegations made in the demand or
208 complaint; and

209 (ii) a person or group described in Subsection (4) is conducting an active review of the
210 allegations in good faith.

211 (e) If a corporation proposes to dismiss a derivative proceeding pursuant to Subsection
212 (4)(a), discovery by a shareholder following the filing of the derivative proceeding in
213 accordance with this section:

214 (i) shall be limited to facts relating to:

215 (A) whether the person or group described in Subsection (4)(b) or (4)(f) is independent
216 and disinterested;

217 (B) the good faith of the inquiry and review by the person or group described in
218 Subsection (4)(b) or (4)(f); and

219 (C) the reasonableness of the procedures followed by the person or group described in
220 Subsection (4)(b) or (4)(f) in conducting its review; and

221 (ii) may not extend to any facts or substantive matters with respect to the act, omission,
222 or other matter that is the subject matter of the derivative proceeding.

223 (4) (a) A derivative proceeding shall be dismissed by the court on motion by the
224 corporation if a person or group specified in Subsections (4)(b) or (4)(f) determines in good
225 faith after conducting a reasonable inquiry upon which its conclusions are based that the
226 maintenance of the derivative proceeding is not in the best interests of the corporation.

227 (b) Unless a panel is appointed pursuant to Subsection (4)(f), the determination in
228 Subsection (4)(a) shall be made by:

229 (i) a majority vote of independent directors present at a meeting of the board of
230 directors if the independent directors constitute a quorum; or

231 (ii) a majority vote of a committee consisting of two or more independent directors
232 appointed by a majority vote of independent directors present at a meeting of the board of
233 directors, whether or not such independent directors appointing the committee constituted a
234 quorum.

235 (c) None of the following shall by itself cause a director to be considered not
236 independent for purposes of this section:

237 (i) the nomination or election of the director by persons:

238 (A) who are defendants in the derivative proceeding; or

239 (B) against whom action is demanded;

240 (ii) the naming of the director as:

241 (A) a defendant in the derivative proceeding; or

242 (B) a person against whom action is demanded; or

243 (iii) the approval by the director of the act being challenged in the derivative
244 proceeding or demand if the act resulted in no personal benefit to the director.

245 (d) If a derivative proceeding is commenced after a determination has been made
246 rejecting a demand by a shareholder, the complaint shall allege with particularity facts
247 establishing either:

248 (i) that a majority of the board of directors did not consist of independent directors at
249 the time the determination was made; or

250 (ii) that the requirements of Subsection (4)(a) have not been met.

251 (e) (i) If a majority of the board of directors does not consist of independent directors at
252 the time the determination is made rejecting a demand by a shareholder, the corporation has
253 the burden of proving that the requirements of Subsection (4)(a) have been met.

254 (ii) If a majority of the board of directors consists of independent directors at the time
255 the determination is made rejecting a demand by a shareholder, the plaintiff has the burden of
256 proving that the requirements of Subsection (4)(a) have not been met.

257 (f) (i) The court may appoint a panel of one or more independent persons upon motion
258 by the corporation to make a determination whether the maintenance of the derivative
259 proceeding is in the best interests of the corporation.

260 (ii) If the court appoints a panel under Subsection (4)(f)(i), the plaintiff has the burden
261 of proving that the requirements of Subsection (4)(a) have not been met.

262 (g) A person may appeal from an interlocutory order of a court that grants or denies a
263 motion to dismiss brought pursuant to Subsection (4)(a).

264 (5) (a) A derivative proceeding may not be discontinued or settled without the court's
265 approval.

266 (b) If the court determines that a proposed discontinuance or settlement will
267 substantially affect the interests of the corporation's shareholders or a class of shareholders, the
268 court shall direct that notice be given to the shareholders affected.

269 (6) On termination of the derivative proceeding the court may order:

270 (a) the corporation to pay the plaintiff's reasonable expenses, including counsel fees,
271 incurred in the proceeding, if it finds that the proceeding has resulted in a substantial benefit to
272 the corporation;

273 (b) the plaintiff to pay any defendant's reasonable expenses, including counsel fees,
274 incurred in defending the proceeding, if it finds that the proceeding was commenced or
275 maintained:

276 (i) without reasonable cause; or
 277 (ii) for an improper purpose; or
 278 (c) a party to pay an opposing party's reasonable expenses, including counsel fees,
 279 incurred because of the filing of a pleading, motion, or other paper, if it finds that the pleading,
 280 motion, or other paper was:

281 (i) (A) not well grounded in fact, after reasonable inquiry; or
 282 (B) not warranted by existing law or a good faith argument for the extension,
 283 modification, or reversal of existing law; and

284 (ii) interposed for an improper purpose, such as to:

285 (A) harass;
 286 (B) cause unnecessary delay; or
 287 (C) cause needless increase in the cost of litigation.

288 (7) (a) In any derivative proceeding in the right of a foreign corporation, the matters
 289 covered by this section shall be governed by the laws of the jurisdiction of incorporation of the
 290 foreign corporation except for Subsections (3)(c), (3)(d), (5), and (6), which are procedural and
 291 not matters relating to the internal affairs of the foreign corporation.

292 (b) In the case of matters relating to a foreign corporation under Subsection (3)(c):

293 (i) references to a person or group described in Subsection (4) are considered to refer to
 294 a person or group entitled under the laws of the jurisdiction of incorporation of the foreign
 295 corporation to review and dispose of a derivative proceeding; and

296 (ii) the standard of review of a decision by the person or group to dismiss the derivative
 297 proceeding is to be governed by the laws of the jurisdiction of incorporation of the foreign
 298 corporation.

299 Section 3. Section **17D-2-602** is amended to read:

300 **17D-2-602. Contesting the legality of a resolution or other proceeding -- No cause**
 301 **of action after contest period.**

302 (1) For a period of 30 days after publication of a resolution or other proceeding under
 303 Subsection [~~17D-1-601~~] 17D-2-601(1) or a notice under Subsection [~~17D-1-601~~]
 304 17D-2-601(2), any person in interest may file an action in district court contesting the
 305 regularity, formality, or legality of:

306 (a) a resolution or other proceeding;

307 (b) any bonds or a lease agreement authorized by a resolution or other proceeding; or
308 (c) any provision made for the security or payment of local building authority bonds or
309 lease agreement.

310 (2) After the period referred to in Subsection (1), no one may have a cause of action to
311 contest for any reason the regularity, formality, or legality of any of the matters listed in
312 Subsection (1).

313 Section 4. Section **19-2-109.1** is amended to read:

314 **19-2-109.1. Operating permit required -- Emissions fee -- Implementation.**

315 (1) As used in this section and Sections 19-2-109.2 and 19-2-109.3:

316 (a) "EPA" means the federal Environmental Protection Agency.

317 (b) "1990 Clean Air Act" means the federal Clean Air Act as amended in 1990.

318 (c) "Operating permit" means a permit issued by the executive secretary to sources of
319 air pollution that meet the requirements of Titles IV and V of the 1990 Clean Air Act.

320 (d) "Program" means the air pollution operating permit program established under this
321 section to comply with Title V of the 1990 Clean Air Act.

322 (e) "Regulated pollutant" has the same meaning as defined in Title V of the 1990 Clean
323 Air Act and implementing federal regulations.

324 (2) (a) A person may not operate any source of air pollution required to have a permit
325 under Title V of the 1990 Clean Air Act without having obtained an operating permit from the
326 executive secretary under procedures the board establishes by rule.

327 (b) A person is not required to submit an operating permit application until the
328 governor has submitted an operating permit program to the EPA.

329 (c) Any operating permit issued under this section may not become effective until the
330 day after the EPA issues approval of the permit program or November 15, 1995, whichever
331 occurs first.

332 (3) (a) Operating permits issued under this section shall be for a period of five years
333 unless the board makes a written finding, after public comment and hearing, and based on
334 substantial evidence in the record, that an operating permit term of less than five years is
335 necessary to protect the public health and the environment of the state.

336 (b) The executive secretary may issue, modify, or renew an operating permit only after
337 providing public notice, an opportunity for public comment, and an opportunity for a public

338 hearing.

339 (c) The executive secretary shall, in conformity with the 1990 Clean Air Act and
340 implementing federal regulations, revise the conditions of issued operating permits to
341 incorporate applicable federal regulations in conformity with Section 502(b)(9) of the 1990
342 Clean Air Act, if the remaining period of the permit is three or more years.

343 (d) The executive secretary may terminate, modify, revoke, or reissue an operating
344 permit for cause.

345 (4) (a) The board shall establish a proposed annual emissions fee that conforms with
346 Title V of the 1990 Clean Air Act for each ton of regulated pollutant, applicable to all sources
347 required to obtain a permit. The emissions fee established under this section is in addition to
348 fees assessed under Section 19-2-108 for issuance of an approval order.

349 (b) In establishing the fee the board shall comply with the provisions of Section
350 63J-1-504 that require a public hearing and require the established fee to be submitted to the
351 Legislature for its approval as part of the department's annual appropriations request.

352 (c) The fee shall cover all reasonable direct and indirect costs required to develop and
353 administer the program and the small business assistance program established under Section
354 19-2-109.2. The board shall prepare an annual report of the emissions fees collected and the
355 costs covered by those fees under this Subsection (4).

356 (d) The fee shall be established uniformly for all sources required to obtain an
357 operating permit under the program and for all regulated pollutants.

358 (e) The fee may not be assessed for emissions of any regulated pollutant if the
359 emissions are already accounted for within the emissions of another regulated pollutant.

360 (f) An emissions fee may not be assessed for any amount of a regulated pollutant
361 emitted by any source in excess of 4,000 tons per year of that regulated pollutant.

362 (5) Emissions fees for the period:

363 (a) of July 1, 1992, through June 30, 1993, shall be based on the most recent emissions
364 inventory prepared by the executive secretary; and

365 (b) on and after July 1, 1993, but before issuance of an operating permit, shall be based
366 on the most recent emissions inventory, unless a source elects [~~prior to~~] before July 1, 1992, to
367 base the fee on allowable emissions, if applicable for a regulated pollutant.

368 (6) After an operating permit is issued the emissions fee shall be based on actual

369 emissions for a regulated pollutant unless a source elects, prior to the issuance or renewal of a
370 permit, to base the fee during the period of the permit on allowable emissions for that regulated
371 pollutant.

372 (7) If the owner or operator of a source subject to this section fails to timely pay an
373 annual emissions fee, the executive secretary may:

374 (a) impose a penalty of not more than 50% of the fee, in addition to the fee, plus
375 interest on the fee computed at 12% annually; or

376 (b) revoke the operating permit.

377 (8) The owner or operator of a source subject to this section may contest an emissions
378 fee assessment or associated penalty in an adjudicative hearing under the Title 63G, Chapter 4,
379 Administrative Procedures Act, and Section 19-1-301, as provided in this Subsection (8).

380 (a) The owner or operator shall pay the fee under protest prior to being entitled to a
381 hearing. Payment of an emissions fee or penalty under protest is not a waiver of the right to
382 contest the fee or penalty under this section.

383 (b) A request for a hearing under this Subsection (8) shall be made after payment of the
384 emissions fee and within six months after the emissions fee was due.

385 (9) To reinstate an operating permit revoked under Subsection (7) the owner or
386 operator shall pay all outstanding emissions fees, a penalty of not more than 50% of all
387 outstanding fees, and interest on the outstanding emissions fees computed at 12% annually.

388 (10) All emissions fees and penalties collected by the department under this section
389 shall be deposited in the General Fund as the Air Pollution Operating Permit Program
390 dedicated credit to be used solely to pay for the reasonable direct and indirect costs incurred by
391 the department in developing and administering the program and the small business assistance
392 program under Section 19-2-109.2.

393 (11) Failure of the executive secretary to act on any operating permit application or
394 renewal is a final administrative action only for the purpose of obtaining judicial review by any
395 of the following persons to require the executive secretary to take action on the permit or its
396 renewal without additional delay:

397 (a) the applicant;

398 (b) any person who participated in the public comment process; or

399 (c) any other person who could obtain judicial review of that action under applicable

400 law.

401 Section 5. Section **20A-7-402** is amended to read:

402 **20A-7-402. Local voter information pamphlet -- Contents -- Limitations --**

403 **Preparation -- Statement on front cover.**

404 (1) The county or municipality that is [~~the~~] subject [~~of~~] to a ballot proposition shall
405 prepare a local voter information pamphlet that meets the requirements of this part.

406 (2) (a) The arguments for and against a ballot proposition shall conform to the
407 requirements of this section.

408 (i) To prepare arguments for or against a ballot proposition, a person shall file a request
409 with the local legislative body at least 50 days before the election at which the ballot
410 proposition is to be voted upon.

411 (ii) If more than one person requests the opportunity to prepare arguments for or
412 against a ballot proposition, the governing body shall make the final designation according to
413 the following criteria:

414 (A) sponsors have priority in preparing an argument regarding a ballot proposition; and

415 (B) members of the local legislative body have priority over others.

416 (iii) (A) Except as provided by Subsection (2)(a)(iv), a sponsor of a ballot proposition
417 may prepare an argument in favor of the ballot proposition.

418 (B) Except as provided by Subsection (2)(a)(iv), a person opposed to the ballot
419 proposition who submits a request under Subsection (2)(a)(i) may prepare an argument against
420 the ballot proposition.

421 (iv) (A) For a referendum, a person who is in favor of a law that is referred to the
422 voters and who submits a request under Subsection (2)(a)(i) may prepare an argument for
423 adoption of the law.

424 (B) The sponsors of a referendum may prepare an argument against the adoption of a
425 law that is referred to the voters.

426 (v) The arguments may not:

427 (A) exceed 500 words in length; or

428 (B) list more than five names as sponsors.

429 (vi) The arguments supporting and opposing any county or municipal ballot
430 proposition shall be filed with the local clerk not less than 45 days before the election at which

431 they are to be voted upon.

432 (b) The local voter information pamphlet shall include a copy of the initial fiscal
433 impact estimate prepared for each initiative under Section 20A-7-502.5.

434 (3) (a) In preparing the local voter information pamphlet, the local legislative body
435 shall:

436 (i) ensure that the arguments are printed on the same sheet of paper upon which the
437 ballot proposition is also printed;

438 (ii) ensure that the following statement is printed on the front cover or the heading of
439 the first page of the printed arguments:

440 "The arguments for or against a ballot proposition are the opinions of the authors.";

441 (iii) pay for the printing and binding of the local voter information pamphlet; and

442 (iv) ensure that the local clerk distributes the pamphlets either by mail or carrier not
443 less than eight days before the election at which the ballot propositions are to be voted upon.

444 (b) (i) If the proposed measure exceeds 500 words in length, the local legislative body
445 may direct the local clerk to summarize the measure in 500 words or less.

446 (ii) The summary shall state where a complete copy of the ballot proposition is
447 available for public review.

448 Section 6. Section **20A-11-103** is amended to read:

449 **20A-11-103. Notice of pending interim and summary reports -- Form of**
450 **submission -- Public availability.**

451 (1) (a) Except as provided under Subsection (1)(b), 10 days before an interim report or
452 summary report is due under this chapter or Chapter 12, Part 2, Judicial Retention Elections,
453 the chief election officer shall inform the filing entity by postal mail or, if requested by the
454 filing entity, by electronic mail:

455 (i) that the financial statement is due;

456 (ii) of the date that the financial statement is due; and

457 (iii) of the penalty for failing to file the financial statement.

458 (b) [~~Notwithstanding the provisions of Subsection (1)(a), under this section the~~] The
459 chief election officer is not required to provide notice:

460 (i) to a candidate or political party of the financial statement that is due before the
461 candidate's or political party's political convention;

462 (ii) of a financial statement due in connection with a public hearing for an initiative
463 under the requirements of Section 20A-7-204.1; or

464 (iii) to a corporation or labor organization, as defined in Section 20A-11-1501.

465 (2) A filing entity shall electronically file a financial statement via electronic mail or
466 the Internet according to specifications established by the chief election officer.

467 (3) (a) A financial statement is considered timely filed if it is received by the chief
468 election officer's office before the close of regular office hours on the date that it is due.

469 (b) A chief election officer may extend the time in which a filing entity is required to
470 file a financial statement if a filing entity notifies the chief election officer of the existence of
471 an extenuating circumstance that is outside the control of the filing entity.

472 (4) Notwithstanding any provision of Title 63G, Chapter 2, Government Records
473 Access and Management Act, the lieutenant governor shall:

474 (a) make each campaign finance statement filed by a candidate available for public
475 inspection and copying no later than one business day after the statement is filed; and

476 (b) post an electronic copy or the contents of each financial statement in a searchable
477 format on a website established by the lieutenant governor:

478 (i) for campaign finance statements submitted to the lieutenant governor under the
479 requirements of Section 10-3-208 or Section 17-16-6.5, no later than seven business days after
480 the date of receipt of the campaign finance statement; or

481 (ii) for a summary report or interim report filed under the requirements of this chapter
482 or Chapter 12, Part 2, Judicial Retention Elections, no later than three business days after the
483 date the summary report or interim report is electronically filed.

484 (5) If a municipality, under Section 10-3-208, or a county, under Section 17-16-6.5,
485 elects to provide campaign finance disclosure on its own website, rather than through the
486 lieutenant governor, the website established by the lieutenant governor shall contain a link or
487 other access point to the municipality or county website.

488 Section 7. Section **20A-16-406** is amended to read:

489 **20A-16-406. Disposition of ballot by county clerk.**

490 (1) Upon receipt by the county clerk of the envelope containing a military-overseas
491 ballot, the county clerk shall:

492 (a) enclose the unopened envelope containing the ballot and the written application of

493 the covered voter in a larger envelope;

494 (b) securely seal and endorse it with:

495 (i) the name or number of the proper voting precinct;

496 (ii) the name and official title of the clerk; and

497 (iii) the words: "This envelope contains an absentee voter's official Utah election ballot
498 to be voted at ____ (Insert Name and Number) precinct, in ____ (Insert Name) county, and
499 may be opened on election day at the polls while the polls are open."; and

500 (c) safely keep the envelope in the county clerk's office until the envelope is delivered
501 by the county clerk to the proper election judges.

502 (2) (a) When reasonably possible, the county clerk shall deliver or mail all
503 military-overseas voter ballot envelopes to the appropriate voting precinct election judges so
504 that the ballots may be processed on election day.

505 (b) If the clerk is unable to determine the voting precinct to which the ballot should be
506 sent or when valid ballots are received too late to deliver to the election judges on election day,
507 the clerk shall keep them in a safe place until delivery can be made as required by Section
508 20A-3-309.

509 Section 8. Section **20A-16-502** is amended to read:

510 **20A-16-502. Publication of election notice.**

511 (1) At least 100 days before an election, other than a statewide special election or local
512 special election, and as soon as practicable before a statewide special election or local special
513 election, the election officer shall prepare an election notice for the election officer's
514 jurisdiction, to be used in conjunction with a federal write-in absentee ballot.

515 (2) The election notice must contain:

516 (a) a list of all of the ballot propositions and federal, state, and local offices that as of
517 that date the election officer expects to be on the ballot on the date of the election; and

518 (b) specific instructions for how a covered voter is to indicate on the federal write-in
519 absentee ballot the covered voter's choice for each office to be filled and for each ballot
520 proposition to be contested.

521 (3) (a) A covered voter may request a copy of an election notice.

522 (b) The election officer shall send the notice to the covered voter by facsimile, email,
523 or regular mail, as the covered voter requests.

524 (4) As soon as the ballot is certified, and not later than the date ballots are required to
525 be transmitted to voters under Chapter 3, Part 3, Absentee Voting, the ~~[official]~~ election officer
526 charged with preparing the election notice under Subsection (1) shall update the notice with the
527 certified candidates for each office and ballot propositions ~~[questions]~~ and make the updated
528 notice publicly available.

529 (5) A political subdivision that maintains a website shall make the election notice
530 prepared under this section and updated versions of the election notice regularly available on
531 the website.

532 Section 9. Section **26-18-4** is amended to read:

533 **26-18-4. Department standards for eligibility under Medicaid -- Funds for**
534 **abortions.**

535 (1) The department may develop standards and administer policies relating to
536 eligibility under the Medicaid program as long as they are consistent with Subsection
537 26-18-3~~(8)~~(9). An applicant receiving Medicaid assistance may be limited to particular types
538 of care or services or to payment of part or all costs of care determined to be medically
539 necessary.

540 (2) The department may not provide any funds for medical, hospital, or other medical
541 expenditures or medical services to otherwise eligible persons where the purpose of the
542 assistance is to perform an abortion, unless the life of the mother would be endangered if an
543 abortion were not performed.

544 (3) Any employee of the department who authorizes payment for an abortion contrary
545 to the provisions of this section is guilty of a class B misdemeanor and subject to forfeiture of
546 office.

547 (4) Any person or organization that, under the guise of other medical treatment,
548 provides an abortion under auspices of the Medicaid program is guilty of a third degree felony
549 and subject to forfeiture of license to practice medicine or authority to provide medical services
550 and treatment.

551 Section 10. Section **26-18-10** is amended to read:

552 **26-18-10. Utah Medical Assistance Program -- Policies and standards.**

553 (1) The division shall develop a medical assistance program, which shall be known as
554 the Utah Medical Assistance Program, for low income persons who are not eligible under the

555 state plan for Medicaid under Title XIX of the Social Security Act or Medicare under Title
556 XVIII of that act.

557 (2) Persons in the custody of prisons, jails, halfway houses, and other nonmedical
558 government institutions are not eligible for services provided under this section.

559 (3) The department shall develop standards and administer policies relating to
560 eligibility requirements, consistent with Subsection 26-18-3~~(8)~~(9), for participation in the
561 program, and for payment of medical claims for eligible persons.

562 (4) The program shall be a payor of last resort. Before assistance is rendered the
563 division shall investigate the availability of the resources of the spouse, father, mother, and
564 adult children of the person making application.

565 (5) The department shall determine what medically necessary care or services are
566 covered under the program, including duration of care, and method of payment, which may be
567 partial or in full.

568 (6) The department may not provide public assistance for medical, hospital, or other
569 medical expenditures or medical services to otherwise eligible persons where the purpose of
570 the assistance is for the performance of an abortion, unless the life of the mother would be
571 endangered if an abortion were not performed.

572 (7) The department may establish rules to carry out the provisions of this section.

573 Section 11. Section **26-40-103** is amended to read:

574 **26-40-103. Creation and administration of the Utah Children's Health Insurance**
575 **Program.**

576 (1) There is created the Utah Children's Health Insurance Program to be administered
577 by the department in accordance with the provisions of:

578 (a) this chapter; and

579 (b) the State Children's Health Insurance Program, 42 U.S.C. Sec. 1397aa et seq.

580 (2) The department shall:

581 (a) prepare and submit the state's children's health insurance plan before May 1, 1998,
582 and any amendments to the federal Department of Health and Human Services in accordance
583 with 42 U.S.C. Sec. 1397ff; and

584 (b) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
585 Rulemaking Act regarding:

- 586 (i) eligibility requirements consistent with Subsection 26-18-3[~~(8)~~](9);
- 587 (ii) program benefits;
- 588 (iii) the level of coverage for each program benefit;
- 589 (iv) cost-sharing requirements for enrollees, which may not:
- 590 (A) exceed the guidelines set forth in 42 U.S.C. Sec. 1397ee; or
- 591 (B) impose deductible, copayment, or coinsurance requirements on an enrollee for
- 592 well-child, well-baby, and immunizations; and
- 593 (v) the administration of the program.

594 Section 12. Section **31A-8-501** is amended to read:

595 **31A-8-501. Access to health care providers.**

596 (1) As used in this section:

597 (a) "Class of health care provider" means a health care provider or a health care facility
598 regulated by the state within the same professional, trade, occupational, or certification
599 category established under Title 58, Occupations and Professions, or within the same facility
600 licensure category established under Title 26, Chapter 21, Health Care Facility Licensing and
601 Inspection Act.

602 (b) "Covered health care services" or "covered services" means health care services for
603 which an enrollee is entitled to receive under the terms of a health maintenance organization
604 contract.

605 (c) "Credentialed staff member" means a health care provider with active staff
606 privileges at an independent hospital or federally qualified health center.

607 (d) "Federally qualified health center" means as defined in the Social Security Act, 42
608 U.S.C. Sec. 1395x.

609 (e) "Independent hospital" means a general acute hospital or a critical access hospital
610 that:

611 (i) is either:

612 (A) located 20 miles or more from any other general acute hospital or critical access
613 hospital; or

614 (B) licensed as of January 1, 2004;

615 (ii) is licensed pursuant to Title 26, Chapter 21, Health Care Facility Licensing and
616 Inspection Act; and

617 (iii) is controlled by a board of directors of which 51% or more reside in the county
618 where the hospital is located and:

619 (A) the board of directors is ultimately responsible for the policy and financial
620 decisions of the hospital; or

621 (B) the hospital is licensed for 60 or fewer beds and is not owned, in whole or in part,
622 by an entity that owns or controls a health maintenance organization if the hospital is a
623 contracting facility of the organization.

624 (f) "Noncontracting provider" means an independent hospital, federally qualified health
625 center, or credentialed staff member who has not contracted with a health maintenance
626 organization to provide health care services to enrollees of the organization.

627 (2) Except for a health maintenance organization which is under the common
628 ownership or control of an entity with a hospital located within 10 paved road miles of an
629 independent hospital, a health maintenance organization shall pay for covered health care
630 services rendered to an enrollee by an independent hospital, a credentialed staff member at an
631 independent hospital, or a credentialed staff member at his local practice location if:

632 (a) the enrollee:

633 (i) lives or resides within 30 paved road miles of the independent hospital; or

634 (ii) if Subsection (2)(a)(i) does not apply, lives or resides in closer proximity to the
635 independent hospital than a contracting hospital;

636 (b) the independent hospital is located prior to December 31, 2000 in a county with a
637 population density of less than 100 people per square mile, or the independent hospital is
638 located in a county with a population density of less than 30 people per square mile; and

639 (c) the enrollee has complied with the prior authorization and utilization review
640 requirements otherwise required by the health maintenance organization contract.

641 (3) A health maintenance organization shall pay for covered health care services
642 rendered to an enrollee at a federally qualified health center if:

643 (a) the enrollee:

644 (i) lives or resides within 30 paved road miles of the federally qualified health center;

645 or

646 (ii) if Subsection (3)(a)(i) does not apply, lives or resides in closer proximity to the
647 federally qualified health center than a contracting provider;

648 (b) the federally qualified health center is located in a county with a population density
649 of less than 30 people per square mile; and

650 (c) the enrollee has complied with the prior authorization and utilization review
651 requirements otherwise required by the health maintenance organization contract.

652 (4) (a) A health maintenance organization shall reimburse a noncontracting provider or
653 the enrollee for covered services rendered pursuant to Subsection (2) a like dollar amount as it
654 pays to contracting providers under a noncapitated arrangement for comparable services.

655 (b) A health maintenance organization shall reimburse a federally qualified health
656 center or the enrollee for covered services rendered pursuant to Subsection (3) a like amount as
657 paid by the health maintenance organization under a noncapitated arrangement for comparable
658 services to a contracting provider in the same class of health care providers as the provider who
659 rendered the service.

660 (5) (a) A noncontracting independent hospital may not balance bill a patient when the
661 health maintenance organization reimburses a noncontracting independent hospital or an
662 enrollee in accordance with Subsection (4)(a).

663 (b) A noncontracting federally qualified health center may not balance bill a patient
664 when the federally qualified health center or the enrollee receives reimbursement in accordance
665 with Subsection (4)(b).

666 (6) A noncontracting provider may only refer an enrollee to another noncontracting
667 provider so as to obligate the enrollee's health maintenance organization to pay for the resulting
668 services if:

669 (a) the noncontracting provider making the referral or the enrollee has received prior
670 authorization from the organization for the referral; or

671 (b) the practice location of the noncontracting provider to whom the referral is made:

672 (i) is located in a county with a population density of less than 25 people per square
673 mile; and

674 (ii) is within 30 paved road miles of:

675 (A) the place where the enrollee lives or resides; or

676 (B) the independent hospital or federally qualified health center at which the enrollee
677 may receive covered services pursuant to Subsection (2) or (3).

678 (7) Notwithstanding this section, a health maintenance organization may contract

679 directly with an independent hospital, federally qualified health center, or credentialed staff
680 member.

681 (8) (a) A health maintenance organization that violates any provision of this section is
682 subject to sanctions as determined by the commissioner in accordance with Section 31A-2-308.

683 (b) Violations of this section include:

684 (i) failing to provide the notice required by Subsection (8)(d) by placing the notice in
685 any health maintenance organization's provider list that is supplied to enrollees, including any
686 website maintained by the health maintenance organization;

687 (ii) failing to provide notice of an [~~enrollees's~~] enrollees' rights under this section when:

688 (A) an enrollee makes personal contact with the health maintenance organization by
689 telephone, electronic transaction, or in person; and

690 (B) the enrollee inquires about his rights to access an independent hospital or federally
691 qualified health center; and

692 (iii) refusing to reprocess or reconsider a claim, initially denied by the health
693 maintenance organization, when the provisions of this section apply to the claim.

694 (c) The commissioner shall, pursuant to Chapter 2, Part 2, Duties and Powers of
695 Commissioner:

696 (i) adopt rules as necessary to implement this section;

697 (ii) identify in rule:

698 (A) the counties with a population density of less than 100 people per square mile;

699 (B) independent hospitals as defined in Subsection (1)(e); and

700 (C) federally qualified health centers as defined in Subsection (1)(d).

701 (d) (i) A health maintenance organization shall:

702 (A) use the information developed by the commissioner under Subsection (8)(c) to
703 identify the rural counties, independent hospitals, and federally qualified health centers that are
704 located in the health maintenance organization's service area; and

705 (B) include the providers identified under Subsection (8)(d)(i)(A) in the notice required
706 in Subsection (8)(d)(ii).

707 (ii) The health maintenance organization shall provide the following notice, in bold
708 type, to enrollees as specified under Subsection (8)(b)(i), and shall keep the notice current:

709 "You may be entitled to coverage for health care services from the following non-HMO

710 contracted providers if you live or reside within 30 paved road miles of the listed providers, or
711 if you live or reside in closer proximity to the listed providers than to your HMO contracted
712 providers:

713 This list may change periodically, please check on our website or call for verification.
714 Please be advised that if you choose a noncontracted provider you will be responsible for any
715 charges not covered by your health insurance plan.

716 If you have questions concerning your rights to see a provider on this list you may
717 contact your health maintenance organization at _____. If the HMO does not resolve your
718 problem, you may contact the Office of Consumer Health Assistance in the Insurance
719 Department, toll free."

720 (e) A person whose interests are affected by an alleged violation of this section may
721 contact the Office of Consumer Health Assistance and request assistance, or file a complaint as
722 provided in Section 31A-2-216.

723 Section 13. Section **32B-3-203** is amended to read:

724 **32B-3-203. Initiating a disciplinary proceeding.**

725 Subject to Section 32B-3-202:

726 (1) The department may initiate a disciplinary proceeding described in Subsection (2)
727 if the department receives:

728 (a) a report from an investigator alleging that a person subject to administrative action
729 violated this title or the rules of the commission;

730 (b) a final adjudication of criminal liability against a person subject to administrative
731 action on the basis of an alleged violation of this title; or

732 (c) a final adjudication of civil liability in accordance with Chapter 15, Alcoholic
733 ~~[Beverage]~~ Product Liability Act, against a person subject to administrative action on the basis
734 of an alleged violation of this title.

735 (2) If the condition of Subsection (1) is met, the department may initiate a disciplinary
736 proceeding to determine:

737 (a) whether a person subject to administrative action violated this title or rules of the
738 commission; and

739 (b) if a violation is found, the appropriate sanction to be imposed.

740 (3) (a) Unless waived by the respondent, a disciplinary proceeding shall be held:

741 (i) if required by law;
 742 (ii) before revoking or suspending a license, permit, or certificate of approval issued
 743 under this title; or

744 (iii) before imposing a fine against a person subject to administrative action.

745 (b) Inexcusable failure of a respondent to appear at a scheduled disciplinary proceeding
 746 hearing after receiving proper notice is an admission of the charged violation.

747 (c) The validity of a disciplinary proceeding is not affected by the failure of a person to
 748 attend or remain in attendance.

749 Section 14. Section **32B-10-604** is amended to read:

750 **32B-10-604. Specific operational requirements for religious wine use permit.**

751 (1) (a) In addition to complying with Section [~~32B-10-207~~] 32B-10-206, a religious
 752 wine permittee and staff of the religious wine permittee shall comply with this section.

753 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
 754 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- 755 (i) a religious wine permittee;
- 756 (ii) individual staff of a religious wine permittee; or
- 757 (iii) a religious wine permittee and staff of the religious wine permittee.

758 (2) A religious wine use permittee may purchase wine from a state store as the
 759 department may designate at the department's cost plus freight charges.

760 (3) A religious wine use permittee may not use wine purchased under a religious wine
 761 use permit for a purpose other than a religious purpose.

762 Section 15. Section **34-32-1.1** is amended to read:

763 **34-32-1.1. Prohibiting public employers from making payroll deductions for**
 764 **political purposes.**

765 (1) As used in this section:

766 (a) (i) "Labor organization" means a lawful organization of any kind that is composed,
 767 in whole or in part, of employees and that exists for the purpose, in whole or in part, of dealing
 768 with employers concerning grievances, labor disputes, wages, rates of pay, hours of
 769 employment, or other terms and conditions of employment.

770 (ii) Except as provided in Subsection (1)(~~b~~)(a)(iii), "labor organization" includes each
 771 employee association and union for public employees.

772 (iii) "Labor organization" does not include organizations governed by the National
773 Labor Relations Act, 29 U.S.C. Sec. 151 et seq. or the Railroad Labor Act, 45 U.S.C. Sec. 151
774 et seq.

775 (b) "Political purposes" means an act done with the intent or in a way to influence or
776 tend to influence, directly or indirectly, any person to refrain from voting or to vote for or
777 against any candidate for public office at any caucus, political convention, primary, or election.

778 (c) "Public employee" means a person employed by:

779 (i) the state of Utah or any administrative subunit of the state;

780 (ii) a state institution of higher education; or

781 (iii) a municipal corporation, a county, a municipality, a school district, a local district,
782 a special service district, or any other political subdivision of the state.

783 (d) "Public employer" means an employer that is:

784 (i) the state of Utah or any administrative subunit of the state;

785 (ii) a state institution of higher education; or

786 (iii) a municipal corporation, a county, a municipality, a school district, a local district,
787 a special service district, or any other political subdivision of the state.

788 (e) "Union dues" means dues, fees, assessments, or other money required as a
789 condition of membership or participation in a labor organization.

790 (2) A public employer may not deduct from the wages of its employees any amounts to
791 be paid to:

792 (a) a candidate as defined in Section 20A-11-101;

793 (b) a personal campaign committee as defined in Section 20A-11-101;

794 (c) a political action committee as defined in Section 20A-11-101;

795 (d) a political issues committee as defined in Section 20A-11-101;

796 (e) a registered political party as defined in Section 20A-11-101;

797 (f) a political fund as defined in Section 20A-11-1402; or

798 (g) any entity established by a labor organization to solicit, collect, or distribute money
799 primarily for political purposes as defined in this chapter.

800 (3) The attorney general may bring an action to require a public employer to comply
801 with the requirements of this section.

802 Section 16. Section **34A-2-704** is amended to read:

803 **34A-2-704. Uninsured Employers' Fund.**

804 (1) (a) There is created an Uninsured Employers' Fund. The Uninsured Employers'
805 Fund has the purpose of assisting in the payment of workers' compensation benefits to a person
806 entitled to the benefits, if:

807 (i) that person's employer:

808 (A) is individually, jointly, or severally liable to pay the benefits; and

809 (B) (I) becomes or is insolvent;

810 (II) appoints or has appointed a receiver; or

811 (III) otherwise does not have sufficient funds, insurance, sureties, or other security to
812 cover workers' compensation liabilities; and

813 (ii) the employment relationship between that person and the person's employer is
814 localized within the state as provided in Subsection (20).

815 (b) The Uninsured Employers' Fund succeeds to money previously held in the Default
816 Indemnity Fund.

817 (c) If it becomes necessary to pay benefits, the Uninsured Employers' Fund is liable for
818 the obligations of the employer set forth in this chapter and Chapter 3, Utah Occupational
819 Disease Act, with the exception of a penalty on those obligations.

820 (2) (a) Money for the Uninsured Employers' Fund shall be deposited into the Uninsured
821 Employers' Fund in accordance with this chapter and Subsection 59-9-101(2).

822 (b) The commissioner shall appoint an administrator of the Uninsured Employers'
823 Fund.

824 (c) (i) The state treasurer is the custodian of the Uninsured Employers' Fund.

825 (ii) The administrator shall make provisions for and direct distribution from the
826 Uninsured Employers' Fund.

827 (3) Reasonable costs of administering the Uninsured Employers' Fund or other fees
828 required to be paid by the Uninsured Employers' Fund may be paid from the Uninsured
829 Employers' Fund.

830 (4) The state treasurer shall:

831 (a) receive workers' compensation premium assessments from the State Tax
832 Commission; and

833 (b) invest the Uninsured Employers' Fund to ensure maximum investment return for

834 both long and short term investments in accordance with Section 51-7-12.5.

835 (5) (a) The administrator may employ, retain, or appoint counsel to represent the
836 Uninsured Employers' Fund in a proceeding brought to enforce a claim against or on behalf of
837 the Uninsured Employers' Fund.

838 (b) If requested by the commission, the following shall aid in the representation of the
839 Uninsured Employers' Fund:

840 (i) the attorney general; or

841 (ii) the city attorney, or county attorney of the locality in which:

842 (A) an investigation, hearing, or trial under this chapter or Chapter 3, Utah
843 Occupational Disease Act, is pending;

844 (B) the employee resides; or

845 (C) an employer:

846 (I) resides; or

847 (II) is doing business.

848 (c) (i) Notwithstanding Title 63A, Chapter [~~8~~;] 3, Part 5, Office of State Debt
849 Collection, the administrator shall provide for the collection of money required to be deposited
850 in the Uninsured Employers' Fund under this chapter and Chapter 3, Utah Occupational
851 Disease Act.

852 (ii) To comply with Subsection (5)(c)(i), the administrator may:

853 (A) take appropriate action, including docketing an award in a manner consistent with
854 Section 34A-2-212; and

855 (B) employ counsel and other personnel necessary to collect the money described in
856 Subsection (5)(c)(i).

857 (6) To the extent of the compensation and other benefits paid or payable to or on behalf
858 of an employee or the employee's dependents from the Uninsured Employers' Fund, the
859 Uninsured Employers' Fund, by subrogation, has the rights, powers, and benefits of the
860 employee or the employee's dependents against the employer failing to make the compensation
861 payments.

862 (7) (a) The receiver, trustee, liquidator, or statutory successor of an employer meeting a
863 condition listed in Subsection (1)(a)(i)(B) is bound by a settlement of a covered claim by the
864 Uninsured Employers' Fund.

865 (b) A court with jurisdiction shall grant a payment made under this section a priority
866 equal to that to which the claimant would have been entitled in the absence of this section
867 against the assets of the employer meeting a condition listed in Subsection (1)(a)(i)(B).

868 (c) The expenses of the Uninsured Employers' Fund in handling a claim shall be
869 accorded the same priority as the liquidator's expenses.

870 (8) (a) The administrator shall periodically file the information described in Subsection
871 (8)(b) with the receiver, trustee, or liquidator of:

872 (i) an employer that meets a condition listed in Subsection (1)(a)(i)(B);

873 (ii) a public agency insurance mutual, as defined in Section 31A-1-103, that meets a
874 condition listed in Subsection (1)(a)(i)(B); or

875 (iii) an insolvent insurance carrier.

876 (b) The information required to be filed under Subsection (8)(a) is:

877 (i) a statement of the covered claims paid by the Uninsured Employers' Fund; and

878 (ii) an estimate of anticipated claims against the Uninsured Employers' Fund.

879 (c) A filing under this Subsection (8) preserves the rights of the Uninsured Employers'
880 Fund for claims against the assets of the employer that meets a condition listed in Subsection
881 (1)(a)(i)(B).

882 (9) When an injury or death for which compensation is payable from the Uninsured
883 Employers' Fund has been caused by the wrongful act or neglect of another person not in the
884 same employment, the Uninsured Employers' Fund has the same rights as allowed under
885 Section 34A-2-106.

886 (10) The Uninsured Employers' Fund, subject to approval of the administrator, shall
887 discharge its obligations by:

888 (a) adjusting its own claims; or

889 (b) contracting with an adjusting company, risk management company, insurance
890 company, or other company that has expertise and capabilities in adjusting and paying workers'
891 compensation claims.

892 (11) (a) For the purpose of maintaining the Uninsured Employers' Fund, an
893 administrative law judge, upon rendering a decision with respect to a claim for workers'
894 compensation benefits in which an employer that meets a condition listed in Subsection
895 (1)(a)(i)(B) is duly joined as a party, shall:

896 (i) order the employer that meets a condition listed in Subsection (1)(a)(i)(B) to
897 reimburse the Uninsured Employers' Fund for the benefits paid to or on behalf of an injured
898 employee by the Uninsured Employers' Fund along with interest, costs, and attorney fees; and

899 (ii) impose a penalty against the employer that meets a condition listed in Subsection
900 (1)(a)(i)(B):

901 (A) of 15% of the value of the total award in connection with the claim; and

902 (B) that shall be deposited into the Uninsured Employers' Fund.

903 (b) An award under this Subsection (11) shall be collected by the administrator in
904 accordance with Subsection (5)(c).

905 (12) The state, the commission, and the state treasurer, with respect to payment of
906 compensation benefits, expenses, fees, or disbursement properly chargeable against the
907 Uninsured Employers' Fund:

908 (a) are liable only to the assets in the Uninsured Employers' Fund; and

909 (b) are not otherwise in any way liable for the making of a payment.

910 (13) The commission may make reasonable rules for the processing and payment of a
911 claim for compensation from the Uninsured Employers' Fund.

912 (14) (a) (i) If it becomes necessary for the Uninsured Employers' Fund to pay benefits
913 under this section to an employee described in Subsection (14)(a)(ii), the Uninsured Employers'
914 Fund may assess all other self-insured employers amounts necessary to pay:

915 (A) the obligations of the Uninsured Employers' Fund subsequent to a condition listed
916 in Subsection (1)(a)(i)(B) occurring;

917 (B) the expenses of handling covered a claim subsequent to a condition listed in
918 Subsection (1)(a)(i)(B) occurring;

919 (C) the cost of an examination under Subsection (15); and

920 (D) other expenses authorized by this section.

921 (ii) This Subsection (14) applies to benefits paid to an employee of:

922 (A) a self-insured employer, as defined in Section 34A-2-201.5, that meets a condition
923 listed in Subsection (1)(a)(i)(B); or

924 (B) if the self-insured employer that meets a condition described in Subsection
925 (1)(a)(i)(B) is a public agency insurance mutual, a member of the public agency insurance
926 mutual.

927 (b) The assessments of a self-insured employer shall be in the proportion that the
928 manual premium of the self-insured employer for the preceding calendar year bears to the
929 manual premium of all self-insured employers for the preceding calendar year.

930 (c) A self-insured employer shall be notified of the self-insured employer's assessment
931 not later than 30 days before the day on which the assessment is due.

932 (d) (i) A self-insured employer may not be assessed in any year an amount greater than
933 2% of that self-insured employer's manual premium for the preceding calendar year.

934 (ii) If the maximum assessment does not provide in a year an amount sufficient to
935 make all necessary payments from the Uninsured Employers' Fund for one or more self-insured
936 employers that meet a condition listed in Subsection (1)(a)(i)(B), the unpaid portion shall be
937 paid as soon as money becomes available.

938 (e) A self-insured employer is liable under this section for a period not to exceed three
939 years after the day on which the Uninsured Employers' Fund first pays benefits to an employee
940 described in Subsection (14)(a)(ii) for the self-insured employer that meets a condition listed in
941 Subsection (1)(a)(i)(B).

942 (f) This Subsection (14) does not apply to a claim made against a self-insured employer
943 that meets a condition listed in Subsection (1)(a)(i)(B) if the condition listed in Subsection
944 (1)(a)(i)(B) occurred before July 1, 1986.

945 (15) (a) The following shall notify the division of any information indicating that any
946 of the following may be insolvent or in a financial condition hazardous to its employees or the
947 public:

948 (i) a self-insured employer; or

949 (ii) if the self-insured employer is a public agency insurance mutual, a member of the
950 public agency insurance mutual.

951 (b) Upon receipt of the notification described in Subsection (15)(a) and with good
952 cause appearing, the division may order an examination of:

953 (i) that self-insured employer; or

954 (ii) if the self-insured employer is a public agency insurance mutual, a member of the
955 public agency mutual.

956 (c) The cost of the examination ordered under Subsection (15)(b) shall be assessed
957 against all self-insured employers as provided in Subsection (14).

958 (d) The results of the examination ordered under Subsection (15)(b) shall be kept
959 confidential.

960 (16) (a) In a claim against an employer by the Uninsured Employers' Fund, or by or on
961 behalf of the employee to whom or to whose dependents compensation and other benefits are
962 paid or payable from the Uninsured Employers' Fund, the burden of proof is on the employer or
963 other party in interest objecting to the claim.

964 (b) A claim described in Subsection (16)(a) is presumed to be valid up to the full
965 amount of workers' compensation benefits claimed by the employee or the employee's
966 dependents.

967 (c) This Subsection (16) applies whether the claim is filed in court or in an adjudicative
968 proceeding under the authority of the commission.

969 (17) A partner in a partnership or an owner of a sole proprietorship may not recover
970 compensation or other benefits from the Uninsured Employers' Fund if:

971 (a) the person is not included as an employee under Subsection 34A-2-104(3); or

972 (b) the person is included as an employee under Subsection 34A-2-104(3), but:

973 (i) the person's employer fails to insure or otherwise provide adequate payment of
974 direct compensation; and

975 (ii) the failure described in Subsection (17)(b)(i) is attributable to an act or omission
976 over which the person had or shared control or responsibility.

977 (18) A director or officer of a corporation may not recover compensation or other
978 benefits from the Uninsured Employers' Fund if the director or officer is excluded from
979 coverage under Subsection 34A-2-104(4).

980 (19) The Uninsured Employers' Fund:

981 (a) shall be:

982 (i) used in accordance with this section only for:

983 (A) the purpose of assisting in the payment of workers' compensation benefits in
984 accordance with Subsection (1); and

985 (B) in accordance with Subsection (3), payment of:

986 (I) reasonable costs of administering the Uninsured Employers' Fund; or

987 (II) fees required to be paid by the Uninsured Employers' Fund; and

988 (ii) expended according to processes that can be verified by audit; and

- 989 (b) may not be used for:
- 990 (i) administrative costs unrelated to the Uninsured Employers' Fund; or
- 991 (ii) an activity of the commission other than an activity described in Subsection (19)(a).

992 (20) (a) For purposes of Subsection (1), an employment relationship is localized in the
993 state if:

994 (i) (A) the employer who is liable for the benefits has a business premise in the state;

995 and

996 (B) (I) the contract for hire is entered into in the state; or

997 (II) the employee regularly performs work duties in the state for the employer who is
998 liable for the benefits; or

999 (ii) the employee is:

1000 (A) a resident of the state; and

1001 (B) regularly performs work duties in the state for the employer who is liable for the
1002 benefits.

1003 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1004 commission shall by rule define what constitutes regularly performing work duties in the state.

1005 Section 17. Section **34A-5-104** is amended to read:

1006 **34A-5-104. Powers.**

1007 (1) (a) The commission has jurisdiction over the subject of employment practices and
1008 discrimination made unlawful by this chapter.

1009 (b) The commission may adopt, publish, amend, and rescind rules, consistent with, and
1010 for the enforcement of this chapter.

1011 (2) The division may:

1012 (a) appoint and prescribe the duties of investigators and other employees and agents
1013 that it considers necessary for the enforcement of this chapter;

1014 (b) receive, reject, investigate, and pass upon complaints alleging:

1015 (i) discrimination in:

1016 (A) employment;

1017 (B) apprenticeship programs;

1018 (C) on-the-job training programs; and

1019 (D) vocational schools; or

- 1020 (ii) the existence of a discriminatory or prohibited employment practice by:
- 1021 (A) a person;
- 1022 (B) an employer;
- 1023 (C) an employment agency;
- 1024 (D) a labor organization;
- 1025 (E) the employees or members of an employment agency or labor organization;
- 1026 (F) a joint apprenticeship committee; and
- 1027 (G) vocational school;
- 1028 (c) investigate and study the existence, character, causes, and extent of discrimination
- 1029 in employment, apprenticeship programs, on-the-job training programs, and vocational schools
- 1030 in this state by:
- 1031 (i) employers;
- 1032 (ii) employment agencies;
- 1033 (iii) labor organizations;
- 1034 (iv) joint apprenticeship committees; and
- 1035 (v) vocational schools;
- 1036 (d) formulate plans for the elimination of discrimination by educational or other
- 1037 means;
- 1038 (e) hold hearings upon complaint made against:
- 1039 (i) a person;
- 1040 (ii) an employer;
- 1041 (iii) an employment agency;
- 1042 (iv) a labor organization;
- 1043 (v) the employees or members of an employment agency or labor organization;
- 1044 (vi) a joint apprenticeship committee; or
- 1045 (vii) a vocational school;
- 1046 (f) issue publications and reports of investigations and research that:
- 1047 (i) promote good will among the various racial, religious, and ethnic groups of the
- 1048 state; and
- 1049 (ii) minimize or eliminate discrimination in employment because of race, color, sex,
- 1050 religion, national origin, age, or disability;

1051 (g) prepare and transmit to the governor, at least once each year, reports describing:

1052 (i) its proceedings, investigations, and hearings;

1053 (ii) the outcome of those hearings;

1054 (iii) decisions the division has rendered; and

1055 (iv) the other work performed by the division;

1056 (h) recommend policies to the governor, and submit recommendation to employers,
1057 employment agencies, and labor organizations to implement those policies;

1058 (i) recommend any legislation concerning discrimination because of race, sex, color,
1059 national origin, religion, age, or disability to the governor that it considers necessary; and

1060 (j) within the limits of any appropriations made for its operation, cooperate with other
1061 agencies or organizations, both public and private, in the planning and conducting of
1062 educational programs designed to eliminate discriminatory practices prohibited under this
1063 chapter.

1064 (3) The division shall investigate alleged discriminatory practices involving officers or
1065 employees of state government if requested to do so by the Career Service Review [Board]
1066 Office.

1067 (4) (a) In any hearing held under this chapter, the division may:

1068 (i) subpoena witnesses and compel their attendance at the hearing;

1069 (ii) administer oaths and take the testimony of any person under oath; and

1070 (iii) compel any person to produce for examination any books, papers, or other
1071 information relating to the matters raised by the complaint.

1072 (b) The division director or a hearing examiner appointed by the division director may
1073 conduct hearings.

1074 (c) If a witness fails or refuses to obey a subpoena issued by the division, the division
1075 may petition the district court to enforce the subpoena.

1076 (d) In the event a witness asserts a privilege against self-incrimination, testimony and
1077 evidence from the witness may be compelled pursuant to Title 77, Chapter 22b, Grants of
1078 Immunity.

1079 Section 18. Section **35A-4-312** is amended to read:

1080 **35A-4-312. Records.**

1081 (1) (a) An employing unit shall keep true and accurate work records containing any

1082 information the department may prescribe by rule.

1083 (b) A record shall be open to inspection and subject to being copied by the division or
1084 its authorized representatives at a reasonable time and as often as may be necessary.

1085 (c) An employing unit shall make a record available in the state for three years after the
1086 calendar year in which the services are rendered.

1087 (2) The division may require from an employing unit a sworn or unsworn report with
1088 respect to a person employed by the employing unit that the division considers necessary for
1089 the effective administration of this chapter.

1090 (3) Except as provided in this section or in Sections 35A-4-103 and 35A-4-106,
1091 information obtained under this chapter or obtained from an individual may not be published or
1092 open to public inspection in any manner revealing the employing unit's or individual's identity.

1093 (4) (a) The information obtained by the division under this section may not be used in
1094 court or admitted into evidence in an action or proceeding, except:

1095 (i) in an action or proceeding arising out of this chapter;

1096 (ii) if the Labor Commission enters into a written agreement with the division under
1097 Subsection (6)(b), in an action or proceeding by the Labor Commission to enforce:

1098 (A) Title 34, Chapter 23, Employment of Minors;

1099 (B) Title 34, Chapter 28, Payment of Wages;

1100 (C) Title 34, Chapter 40, Utah Minimum Wage Act; or

1101 (D) Title 34A, Utah Labor Code;

1102 (iii) under the terms of a court order obtained under Subsection 63G-2-202(7) and
1103 Section 63G-2-207; or

1104 (iv) under the terms of a written agreement between the Office of State Debt Collection
1105 and the division as provided in Subsection (5).

1106 (b) The information obtained by the division under this section shall be disclosed to:

1107 (i) a party to an unemployment insurance hearing before an administrative law judge of
1108 the department or a review by the Workforce Appeals Board to the extent necessary for the
1109 proper presentation of the party's case; or

1110 (ii) an employer, upon request in writing for any information concerning a claim for a
1111 benefit with respect to a former employee of the employer.

1112 (5) The information obtained by the division under this section may be disclosed to:

- 1113 (a) an employee of the department in the performance of the employee's duties in
1114 administering this chapter or other programs of the department;
- 1115 (b) an employee of the Labor Commission for the purpose of carrying out the programs
1116 administered by the Labor Commission;
- 1117 (c) an employee of the Department of Commerce for the purpose of carrying out the
1118 programs administered by the Department of Commerce;
- 1119 (d) an employee of the governor's office or another state governmental agency
1120 administratively responsible for statewide economic development, to the extent necessary for
1121 economic development policy analysis and formulation;
- 1122 (e) an employee of another governmental agency that is specifically identified and
1123 authorized by federal or state law to receive the information for the purposes stated in the law
1124 authorizing the employee of the agency to receive the information;
- 1125 (f) an employee of a governmental agency or workers' compensation insurer to the
1126 extent the information will aid in:
- 1127 (i) the detection or avoidance of duplicate, inconsistent, or fraudulent claims against:
1128 (A) a workers' compensation program; or
1129 (B) public assistance funds; or
- 1130 (ii) the recovery of overpayments of workers' compensation or public assistance funds;
- 1131 (g) an employee of a law enforcement agency to the extent the disclosure is necessary
1132 to avoid a significant risk to public safety or in aid of a felony criminal investigation;
- 1133 (h) an employee of the State Tax Commission or the Internal Revenue Service for the
1134 purposes of:
- 1135 (i) audit verification or simplification;
1136 (ii) state or federal tax compliance;
1137 (iii) verification of a code or classification of the:
1138 (A) 1987 Standard Industrial Classification Manual of the federal Executive Office of
1139 the President, Office of Management and Budget; or
1140 (B) 2002 North American Industry Classification System of the federal Executive
1141 Office of the President, Office of Management and Budget; and
1142 (iv) statistics;
- 1143 (i) an employee or contractor of the department or an educational institution, or other

1144 governmental entity engaged in workforce investment and development activities under the
1145 Workforce Investment Act of 1998 for the purpose of:

- 1146 (i) coordinating services with the department;
- 1147 (ii) evaluating the effectiveness of those activities; and
- 1148 (iii) measuring performance;
- 1149 (j) an employee of the Governor's Office of Economic Development, for the purpose of
1150 periodically publishing in the Directory of Business and Industry, the name, address, telephone
1151 number, number of employees by range, code or classification of an employer, and type of
1152 ownership of Utah employers;
- 1153 (k) the public for any purpose following a written waiver by all interested parties of
1154 their rights to nondisclosure;
- 1155 (l) an individual whose wage data is submitted to the department by an employer, so
1156 long as no information other than the individual's wage data and the identity of the employer
1157 who submitted the information is provided to the individual;
- 1158 (m) an employee of the Insurance Department for the purpose of administering Title
1159 31A, Chapter 40, Professional Employer Organization Licensing Act; or
- 1160 (n) an employee of the Office of State Debt Collection for the purpose of collecting
1161 state accounts receivable as provided in Section [~~63A-8-201~~] 63A-3-502.
- 1162 (6) Disclosure of private information under Subsection (4)(a)(ii) or Subsection (5),
1163 with the exception of Subsections (5)(a) and (g), shall be made only if:
 - 1164 (a) the division determines that the disclosure will not have a negative effect on:
 - 1165 (i) the willingness of employers to report wage and employment information; or
 - 1166 (ii) the willingness of individuals to file claims for unemployment benefits; and
 - 1167 (b) the agency enters into a written agreement with the division in accordance with
1168 rules made by the department.
- 1169 (7) (a) The employees of a division of the department other than the Workforce
1170 Development and Information Division and the Unemployment Insurance Division or an
1171 agency receiving private information from the division under this chapter are subject to the
1172 same requirements of privacy and confidentiality and to the same penalties for misuse or
1173 improper disclosure of the information as employees of the division.
- 1174 (b) Use of private information obtained from the department by a person or for a

1175 purpose other than one authorized in Subsection (4) or (5) violates Subsection 76-8-1301(4).

1176 Section 19. Section **36-12-15.1** is amended to read:

1177 **36-12-15.1. Budget and appropriation audits.**

1178 (1) As used in this section, "entity" means an entity in the executive branch that
1179 receives an ongoing line item appropriation in an appropriations act.

1180 (2) The Office of Legislative Auditor General shall:

1181 (a) each year perform an audit of at least two entities' appropriations, in addition to
1182 other audits performed by the Office of Legislative Auditor General, that evaluates:

1183 (i) the extent to which the entity has efficiently and effectively used the appropriation
1184 by identifying:

1185 (A) the entity's appropriation history;

1186 (B) the entity's spending and efficiency history; and

1187 (C) historic trends in the entity's operational performance effectiveness;

1188 (ii) whether the entity's size and operation are commensurate with the entity's spending
1189 history; and

1190 (iii) whether the entity is diligent in its stewardship of state resources;

1191 (b) if possible, incorporate the audit methodology described in Subsection (2)(a) in
1192 other audits performed by the Office of Legislative Auditor General;

1193 (c) conduct the audits described in Subsection (2)(a) according to the process
1194 established for the Audit Subcommittee created in Section 36-12-8;

1195 (d) after release of an audit report by the Audit Subcommittee, make the audit report
1196 available to:

1197 (i) each member of the Senate and the House of Representatives; and

1198 (ii) the governor or the governor's designee; and

1199 (e) summarize the findings of an audit described in Subsection (2)(a) in:

1200 (i) a unique section of the legislative auditor general's annual report; and

1201 (ii) a format that the legislative fiscal analyst may use in preparation of the annual
1202 appropriations no later than 30 days before the day on which the Legislature convenes.

1203 (3) The Office of Legislative Auditor General shall consult with the legislative fiscal
1204 analyst in preparing the summary required by Subsection (2)(e).

1205 (4) The Legislature, in evaluating an entity's request for an increase in its base budget,

1206 shall:

1207 (a) review the audit report required by this section and any relevant audits; and

1208 (b) consider the entity's request for an increase in its base budget in light of the

1209 ~~[agency's]~~ entity's prior history of savings and efficiencies as evidenced by the audit report

1210 required by this section.

1211 Section 20. Section **38-1-32.5** is amended to read:

1212 **38-1-32.5. Preliminary notice on government project.**

1213 (1) Except for a person who has a contract with an owner or an owner-builder or a

1214 laborer compensated with wages, a subcontractor on a government project shall file a

1215 preliminary notice with the database by the later of:

1216 (a) 20 days after the subcontractor commences the subcontractor's own work or
1217 commences furnishing labor, service, equipment, or material to the construction project; and

1218 (b) 20 days after the filing of a notice of commencement, if the subcontractor's work
1219 commences before the filing of the first notice of commencement.

1220 (2) A preliminary notice filed within the period described in Subsection (1) is effective

1221 as to all labor, service, equipment, and material that the subcontractor furnishes to the

1222 construction project, including labor, service, equipment, and material ~~[provided]~~ that the

1223 subcontractor furnishes to more than one contractor or subcontractor.

1224 (3) (a) If more than one notice of commencement is filed for a project, a person may
1225 attach a preliminary notice to any notice of commencement filed for the project.

1226 (b) A preliminary notice attached to an untimely notice of commencement is valid if
1227 there is also a valid and timely notice of commencement for the project.

1228 (4) If a person files a preliminary notice after the period prescribed by Subsection (1),

1229 the preliminary notice becomes effective five days after the day on which the preliminary
1230 notice is filed.

1231 (5) Except as provided in Subsection (8), failure to file a preliminary notice within the

1232 period required by Subsection (1) precludes a person from maintaining any claim for

1233 compensation earned for labor, service, material, or equipment furnished to the construction

1234 project before the expiration of five days after the late filing of a preliminary notice, except as

1235 against the person with whom the person contracted.

1236 (6) A preliminary notice on a government project shall include:

- 1237 (a) the government project-identifying information;
- 1238 (b) the name, address, and telephone number of the person furnishing the labor,
1239 service, equipment, or material;
- 1240 (c) the name and address of the person who contracted with the claimant for the
1241 furnishing of the labor, service, equipment, or material;
- 1242 (d) the name of the record or reputed owner of the project;
- 1243 (e) the name of the original contractor under which the claimant is performing or will
1244 perform its work; and
- 1245 (f) the address of the project or a description of the location of the project.
- 1246 (7) Upon request, an original contractor shall provide a subcontractor with the number
1247 assigned to the project by the designated agent.
- 1248 (8) A person who provides labor, service, equipment, or material before the filing of a
1249 notice of commencement need not file a preliminary notice to maintain any right the person
1250 would otherwise have, if the notice of commencement is filed more than 15 days after the day
1251 on which the person begins work on the project.
- 1252 (9) Subsections 38-1-32(2), (3), (4), (5), and (6) apply to a preliminary notice on a
1253 government project under this section to the same extent that those subsections apply to a
1254 preliminary notice on a private project under Section 38-1-32.
- 1255 Section 21. Section **39-1-21** is amended to read:
- 1256 **39-1-21. Adjutant general -- Salary.**
- 1257 The adjutant general shall:
- 1258 (1) receive a salary established by the governor within the salary range fixed [~~by the~~
1259 ~~Legislature~~] in Title 67, Chapter 22, State Officer Compensation; and
- 1260 (2) devote all of the adjutant general's time during the office hours of the military
1261 department to the duties of the office.
- 1262 Section 22. Section **53A-17a-123** is amended to read:
- 1263 **53A-17a-123. Local Discretionary Block Grant Program -- State contribution.**
- 1264 (1) The State Board of Education shall distribute money appropriated for the Local
1265 Discretionary Block Grant Program to school districts and charter schools according to a
1266 formula adopted by the board, after consultation with school districts and charter schools, that
1267 allocates the funding in a fair and equitable manner.

1268 (2) Schools districts and charter schools shall use Local Discretionary Block Grant
1269 [monies] money for:

1270 (a) maintenance and operation costs;

1271 (b) capital outlay; or

1272 (c) debt service.

1273 Section 23. Section **57-8-7.5** is amended to read:

1274 **57-8-7.5. Reserve analysis -- Reserve fund.**

1275 (1) As used in this section, "reserve analysis" means an analysis to determine:

1276 (a) the need for a reserve fund to accumulate money to cover the cost of repairing,
1277 replacing, and restoring common areas and facilities that have a useful life of three years or
1278 more, but excluding any cost that can reasonably be funded from the general budget or other
1279 funds of the association of unit owners; and

1280 (b) the appropriate amount of any reserve fund.

1281 (2) Except as otherwise provided in the declaration, a management committee shall:

1282 (a) (i) subject to Subsection (2)(a)(ii), cause a reserve analysis to be conducted no less
1283 frequently than every five years; and

1284 (ii) if no reserve analysis has been conducted since March 1, 2008, cause a reserve
1285 analysis to be conducted before July 1, 2012; and

1286 (b) review and, if necessary, update a previously conducted reserve analysis no less
1287 frequently than every two years.

1288 (3) The management committee may conduct a reserve analysis itself or may engage a
1289 reliable person or organization, as determined by the management committee, to conduct the
1290 reserve analysis.

1291 (4) (a) A management committee may not use money in a reserve fund:

1292 (i) for daily maintenance expenses, unless a majority of the members of the association
1293 of unit owners vote to approve the use of reserve fund money for that purpose; or

1294 (ii) for any purpose other than the purpose for which the reserve fund was established.

1295 (b) A management committee shall maintain a reserve fund separate from other funds
1296 of the association of unit owners.

1297 (c) This Subsection (4) may not be construed to limit a management committee from
1298 prudently investing money in a reserve fund, subject to any investment constraints imposed by

1299 the declaration.

1300 (5) Subsections (2), (3), (4), and (6) do not apply to an association of unit owners
1301 during the period of declarant management.

1302 (6) An association of unit owners shall:

1303 (a) annually, at the annual meeting of unit owners or at a special meeting of unit
1304 owners:

1305 (i) present the reserve study; and

1306 (ii) provide an opportunity for unit owners to discuss reserves and to vote on whether
1307 to fund a reserve fund and, if so, how to fund it and in what amount; and

1308 (b) prepare and keep minutes of each meeting held under Subsection (6)(a) and
1309 indicate in the minutes any decision relating to funding a reserve fund.

1310 (7) This section applies to each association of unit owners, regardless of when the
1311 association of unit owners was created.

1312 Section 24. Section **57-8a-106** is amended to read:

1313 **57-8a-106. Fee for providing payoff information needed at closing.**

1314 (1) Unless specifically authorized in the declaration of covenants, conditions, and
1315 restrictions, the bylaws, or the rules, an association may not charge a fee for providing
1316 association payoff information needed in connection with the financing, refinancing, or closing
1317 of a lot owner's sale of the owner's lot.

1318 (2) An association may not:

1319 (a) require a fee described in Subsection (1) that is authorized in the declaration of
1320 covenants, conditions, and restrictions, the bylaws, or the rules to be paid before closing; or

1321 (b) charge the fee if it exceeds \$50.

1322 (3) (a) An association that fails to provide information described in Subsection (1)
1323 within five business days after the closing agent requests the information may not enforce a lien
1324 against that unit for money due to the association at closing.

1325 (b) A request under Subsection (3)(a) is not effective unless the request:

1326 (i) is conveyed in writing to the primary contact person designated under Subsection
1327 57-8a-105(3)(d);

1328 (ii) contains:

1329 (A) the name, telephone number, and address of the person making the request; and

1330 (B) the facsimile number or email address for delivery of the payoff information; and
1331 (iii) is accompanied by a written consent for the release of the payoff information:

1332 (A) identifying the person requesting the information as a person to whom the payoff
1333 information may be released; and

1334 (B) signed and dated by an owner of the lot for which the payoff information is
1335 requested.

1336 (4) This section applies to each association, regardless of when the association is
1337 formed.

1338 Section 25. Section **57-8a-211** is amended to read:

1339 **57-8a-211. Reserve analysis -- Reserve fund.**

1340 (1) As used in this section, "reserve analysis" means an analysis to determine:

1341 (a) the need for a reserve fund to accumulate money to cover the cost of repairing,
1342 replacing, and restoring common areas that have a useful life of three years or more, but
1343 excluding any cost that can reasonably be funded from the association's general budget or from
1344 other association funds; and

1345 (b) the appropriate amount of any reserve fund.

1346 (2) Except as otherwise provided in the governing documents, a board shall:

1347 (a) (i) subject to Subsection (2)(a)(ii), cause a reserve analysis to be conducted no less
1348 frequently than every five years; and

1349 (ii) if no reserve analysis has been conducted since March 1, 2008, cause a reserve
1350 analysis to be conducted before July 1, 2012; and

1351 (b) review and, if necessary, update a previously conducted reserve analysis no less
1352 frequently than every two years.

1353 (3) The board may conduct a reserve analysis itself or may engage a reliable person or
1354 organization, as determined by the board, to conduct the reserve analysis.

1355 (4) (a) A board may not use money in a reserve fund:

1356 (i) for daily maintenance expenses, unless a majority of association members vote to
1357 approve the use of reserve fund money for that purpose; or

1358 (ii) for any purpose other than the purpose for which the reserve fund was established.

1359 (b) A board shall maintain a reserve fund separate from other association funds.

1360 (c) This Subsection (4) may not be construed to limit a board from prudently investing

1361 money in a reserve fund, subject to any investment constraints imposed by the governing
1362 documents.

1363 (5) Subsections (2), (3), (4), and (6) do not apply to an association during the period of
1364 administrative control.

1365 (6) An association shall:

1366 (a) annually, at the annual meeting of lot owners or at a special meeting of lot owners:

1367 (i) present the reserve study; and

1368 (ii) provide an opportunity for lot owners to discuss reserves and to vote on whether to
1369 fund a reserve fund and, if so, how to fund it and in what amount; and

1370 (b) prepare and keep minutes of each meeting held under Subsection (6)(a) and
1371 indicate in the minutes any decision relating to funding a reserve fund.

1372 (7) This section applies to each association, regardless of when the association was
1373 created.

1374 Section 26. Section **57-8a-405** is amended to read:

1375 **57-8a-405. Property insurance.**

1376 (1) This section applies to property insurance required under Subsection
1377 57-8a-403(1)(a).

1378 (2) The property covered by property insurance shall include any property that, under
1379 the declaration, is required to become common areas.

1380 (3) The total amount of coverage provided by blanket property insurance may not be
1381 less than 100% of the full replacement cost of the insured property at the time the insurance is
1382 purchased and at each renewal date, excluding items normally excluded from property
1383 insurance policies.

1384 (4) Property insurance shall include coverage for any fixture, improvement, or
1385 betterment installed by a lot owner to an attached dwelling or to a limited common area
1386 appurtenant to a dwelling on a lot, including a floor covering, cabinet, light fixture, electrical
1387 fixture, heating or plumbing fixture, paint, wall covering, window, and any other item
1388 permanently part of or affixed to an attached dwelling or to a limited common area.

1389 (5) Notwithstanding anything in this part and unless otherwise provided in the
1390 declaration, an association is not required to obtain property insurance for a loss to a dwelling
1391 that is not physically attached to another dwelling or to a common area structure.

- 1392 (6) Each lot owner is an insured person under a property insurance policy.
- 1393 (7) If a loss occurs that is covered by a property insurance policy in the name of an
1394 association and another property insurance policy in the name of a lot owner:
- 1395 (a) the association's policy provides primary insurance coverage; and
- 1396 (b) notwithstanding Subsection (7)(a) and subject to Subsection (8):
- 1397 (i) a lot owner is responsible for the association's policy deductible; and
- 1398 (ii) the lot owner's policy applies to that portion of the loss attributable to the
1399 association's policy deductible.
- 1400 (8) (a) As used in this Subsection (8):
- 1401 (i) "Covered loss" means a loss, resulting from a single event or occurrence, that is
1402 covered by an association's property insurance policy.
- 1403 (ii) "Lot damage" means damage to any combination of a lot, a dwelling on a lot, or a
1404 limited common area appurtenant to a lot or appurtenant to a dwelling on a lot.
- 1405 (iii) "Lot damage percentage" means the percentage of total damage resulting in a
1406 covered loss that is attributable to lot damage.
- 1407 (b) A lot owner who owns a lot that has suffered lot damage as part of a covered loss is
1408 responsible for an amount calculated by applying the lot damage percentage for that lot to the
1409 amount of the deductible under the association's property insurance policy.
- 1410 (c) If a lot owner does not pay the amount required under Subsection (8)(b) within 30
1411 days after substantial completion of the repairs to, as applicable, the lot, a dwelling on the lot,
1412 or the limited common area appurtenant to the lot, an association may levy an assessment
1413 against a lot owner for that amount.
- 1414 (9) An association shall set aside an amount equal to the amount of the association's
1415 property insurance policy deductible or \$10,000, whichever is less.
- 1416 (10) (a) An association shall provide notice in accordance with Section [~~57-8a-215~~]
1417 ~~57-8a-214~~ to each lot owner of the lot owner's obligation under Subsection (8) for the
1418 association's policy deductible and of any change in the amount of the deductible.
- 1419 (b) An association that fails to provide notice as provided in Subsection (10)(a) is
1420 responsible for the amount of the deductible increase that the association could have assessed
1421 to a lot owner under Subsection (8).
- 1422 (c) An association's failure to provide notice as provided in Subsection (10)(a) may not

1423 be construed to invalidate any other provision of this part.

1424 (11) If, in the exercise of the business judgment rule, the board determines that a claim
1425 is likely not to exceed the association's property insurance policy deductible:

1426 (a) the lot owner's policy is considered the policy for primary coverage to the amount
1427 of the association's policy deductible;

1428 (b) a lot owner who does not have a policy to cover the association's property insurance
1429 policy deductible is responsible for the loss to the amount of the association's policy deductible,
1430 as provided in Subsection (8); and

1431 (c) the association need not tender the claim to the association's insurer.

1432 (12) (a) An insurer under a property insurance policy issued to an association shall
1433 adjust with the association a loss covered under the association's policy.

1434 (b) Notwithstanding Subsection (12)(a), the insurance proceeds for a loss under an
1435 association's property insurance policy:

1436 (i) are payable to an insurance trustee that the association designates or, if no trustee is
1437 designated, to the association; and

1438 (ii) may not be payable to a holder of a security interest.

1439 (c) An insurance trustee or an association shall hold any insurance proceeds in trust for
1440 the association, lot owners, and lien holders.

1441 (d) (i) Insurance proceeds shall be disbursed first for the repair or restoration of the
1442 damaged property.

1443 (ii) After the disbursements described in Subsection (12)(d)(i) are made and the
1444 damaged property has been completely repaired or restored or the project terminated, any
1445 surplus proceeds are payable to the association, lot owners, and lien holders.

1446 (13) An insurer that issues a property insurance policy under this part, or the insurer's
1447 authorized agent, shall issue a certificate or memorandum of insurance to:

1448 (a) the association;

1449 (b) a lot owner, upon the lot owner's written request; and

1450 (c) a holder of a security interest, upon the holder's written request.

1451 (14) A cancellation or nonrenewal of a property insurance policy under this section is
1452 subject to the procedures stated in Section 31A-21-303.

1453 (15) A board that acquires from an insurer the property insurance required in this

1454 section is not liable to lot owners if the insurance proceeds are not sufficient to cover 100% of
1455 the full replacement cost of the insured property at the time of the loss.

1456 Section 27. Section **58-54-302** is amended to read:

1457 **58-54-302. Requirements for licensure.**

1458 (1) Each applicant for licensure as a radiologic technologist, radiology assistant, or
1459 radiology practical technician shall:

1460 (a) submit an application in a form prescribed by the division in collaboration with the
1461 board;

1462 (b) pay a fee as determined by the department pursuant to Section 63J-1-504; and

1463 (c) be of good moral character.

1464 (2) Each applicant for licensure as a radiologic technologist shall, in addition to the
1465 requirements of Subsection (1):

1466 (a) be a graduate of an accredited educational program in radiologic technology or
1467 certified by the American Registry of Radiologic Technologists or any equivalent educational
1468 program approved by the division in collaboration with the board; and

1469 (b) have passed an examination approved by the division in collaboration with the
1470 board.

1471 (3) Each applicant for licensure as a radiology practical technician shall, in addition to
1472 the requirements of Subsection (1), have passed a basic examination and one or more specialty
1473 examinations that are competency based, using a task analysis of the scope of practice of
1474 radiology practical technicians in the state. The basic examination and the specialty
1475 examination shall be approved by the division in collaboration with the board and the licensing
1476 board of the profession within which the radiology practical technician will be practicing.

1477 (4) The division shall provide for administration of the radiology practical technician
1478 examination not less than monthly at offices designated by the division and located:

1479 (a) in Salt Lake City; and

1480 (b) within each local health department jurisdictional area.

1481 (5) (a) Except as provided in Subsection (5)(b), each applicant for licensure as a
1482 radiologist assistant shall:

1483 (i) meet the requirements of Subsections (1) and (2);

1484 (ii) have a Bachelor of Science degree; and

1485 (iii) be certified as:

1486 (A) a radiologist assistant by the American Registry of Radiologic Technologists; or

1487 (B) a radiology practitioner assistant by the Certification Board of Radiology

1488 Practitioner Assistants.

1489 (b) An individual who meets the requirements of Subsections (5)(a)(i) and (iii), but not
1490 Subsection (5)(a)(ii), may be licensed as a [~~radiology~~] radiologist assistant under this chapter
1491 until May 31, 2013, at which time, the individual must have completed the Bachelor of Science
1492 degree in order to retain the license of [~~radiology~~] radiologist assistant.

1493 Section 28. Section **58-54-305** is amended to read:

1494 **58-54-305. Term of license -- Expiration -- Renewal.**

1495 (1) [~~Except as provided by Subsection (4), each~~] Each license issued under this chapter
1496 shall be issued in accordance with a two-year renewal cycle established by rule. A renewal
1497 period may be extended or shortened by as much as one year to maintain established renewal
1498 cycles or to change an established renewal cycle.

1499 (2) At the time of renewal, licensees shall show satisfactory evidence of each of the
1500 following renewal requirements:

1501 (a) 24 hours of approved professional education during a two-year period, as defined
1502 by administrative rule, before renewal of a radiologic technologist license;

1503 (b) 10 hours of approved professional education during a two-year period, as defined
1504 by administrative rule, before renewal of a radiology practical technician license; and

1505 (c) 50 hours of approved professional education during a two-year period, as defined
1506 by administrative rule, before renewal of a radiologist assistant license.

1507 (3) Each license automatically expires on the expiration date shown on the license
1508 unless renewed by the licensee in accordance with Section 58-1-308.

1509 Section 29. Section **58-67-503** is amended to read:

1510 **58-67-503. Penalties and administrative actions for unlawful and unprofessional**
1511 **conduct.**

1512 (1) Any person who violates the unlawful conduct provisions of Section 58-67-501 or
1513 Section 58-1-501 is guilty of a third degree felony.

1514 (2) (a) Subject to Subsection (4), the division may punish unprofessional or unlawful
1515 conduct by:

1516 (i) assessing administrative penalties; or
1517 (ii) taking other appropriate administrative action.

1518 (b) A monetary administrative penalty imposed under this section shall be deposited in
1519 the Physician Education Fund created in Section 58-67a-1.

1520 (3) If a licensee has been convicted of unlawful conduct, described in Section
1521 58-67-501, before an administrative proceeding regarding the same conduct, the division may
1522 not assess an additional administrative fine under this chapter for the same conduct.

1523 (4) (a) If the division concludes that an individual has violated provisions of Section
1524 58-67-501, Section 58-67-502, ~~the~~ Chapter 1, Division of Occupational and Professional
1525 Licensing Act, ~~the~~ Chapter 37, Utah Controlled Substances Act, or any rule or order issued
1526 with respect to these provisions, and disciplinary action is appropriate, the director or director's
1527 designee shall:

1528 (i) issue a citation to the individual;
1529 (ii) attempt to negotiate a stipulated settlement; or
1530 (iii) notify the individual that an adjudicative proceeding conducted under Title 63G,
1531 Chapter 4, Administrative Procedures Act, will be commenced and the individual is invited to
1532 appear.

1533 (b) The division may take the following action against an individual who is in violation
1534 of a provision described in Subsection (4)(a), as evidenced by an uncontested citation, a
1535 stipulated settlement, or a finding of violation in an adjudicative proceeding:

1536 (i) assess a fine of up to \$10,000 per single violation or up to \$2,000 per day of
1537 ongoing violation, whichever is greater, in accordance with a fine schedule established by rule;
1538 or

1539 (ii) order to cease and desist from the behavior that constitutes a violation of the
1540 provisions described in Subsection (4)(a).

1541 (c) An individual's license may not be suspended or revoked through a citation.

1542 (d) Each citation issued under this section shall:

1543 (i) be in writing;
1544 (ii) clearly describe or explain:

1545 (A) the nature of the violation, including a reference to the provision of the chapter,
1546 rule, or order alleged to have been violated;

1547 (B) that the recipient must notify the division in writing within 20 calendar days from
1548 the day on which the citation is served if the recipient wishes to contest the citation at a hearing
1549 conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

1550 (C) the consequences of failure to timely contest the citation or pay the fine assessed by
1551 the citation within the time specified in the citation; and

1552 (iii) be served in accordance with the Utah Rules of Civil Procedure.

1553 (e) If the individual to whom the citation is issued fails to request a hearing to contest
1554 the citation within 20 calendar days from the day on which the citation is served, the citation
1555 becomes the final order of the division and is not subject to further agency review. The period
1556 to contest the citation may be extended by the division for cause.

1557 (f) The division may refuse to issue or renew or suspend, revoke, or place on probation
1558 the license of an individual who fails to comply with a citation after the citation becomes final.

1559 (g) The failure of an applicant for licensure to comply with a citation after it becomes
1560 final is a ground for denial of license.

1561 (h) No citation may be issued under this section after six months from the day on
1562 which the violation last occurred.

1563 Section 30. Section **58-68-402** is amended to read:

1564 **58-68-402. Authority to assess penalties.**

1565 The division in collaboration with the board may assess penalties as described in
1566 Section [~~58-67-503~~] 58-68-503.

1567 Section 31. Section **58-68-503** is amended to read:

1568 **58-68-503. Penalties and administrative actions for unlawful and unprofessional**
1569 **conduct.**

1570 (1) Any person who violates the unlawful conduct provisions of Section 58-68-501 or
1571 Section 58-1-501 is guilty of a third degree felony.

1572 (2) (a) Subject to Subsection (4), the division may punish unprofessional or unlawful
1573 conduct by:

1574 (i) assessing administrative penalties; or

1575 (ii) taking any other appropriate administrative action.

1576 (b) A monetary administrative penalty imposed under this section shall be deposited in
1577 the Physician Education Fund described in Section 58-67a-1.

1578 (3) If a licensee is convicted of unlawful conduct, described in Section 58-68-501,
1579 before an administrative proceeding regarding the same conduct, the licensee may not be
1580 assessed an administrative fine under this chapter for the same conduct.

1581 (4) (a) If the division concludes that an individual has violated the provisions of
1582 Section 58-68-501, Section 58-68-502, [~~the~~] Chapter 1, Division of Occupational and
1583 Professional Licensing Act, [~~the~~] Chapter 37, Utah Controlled Substances Act, or any rule or
1584 order issued with respect to these provisions, and disciplinary action is appropriate, the director
1585 or director's designee shall:

1586 (i) issue a citation to the individual;

1587 (ii) attempt to negotiate a stipulated settlement; or

1588 (iii) notify the individual that an adjudicative proceeding conducted under Title 63G,
1589 Chapter 4, Administrative Procedures Act, will be commenced and the individual is invited to
1590 appear.

1591 (b) The division may take the following action against an individual who is in violation
1592 of a provision described in Subsection (4)(a), as evidenced by an uncontested citation, a
1593 stipulated settlement, or a finding of violation in an adjudicative proceeding:

1594 (i) assess a fine of up to \$10,000 per single violation or \$2,000 per day of ongoing
1595 violation, whichever is greater, in accordance with a fine schedule established by rule; or

1596 (ii) order to cease and desist from the behavior that constitutes a violation of provisions
1597 described in Subsection (4)(a).

1598 (c) Except for an administrative fine and a cease and desist order, the licensure
1599 sanctions cited in Section 58-1-401 may not be assessed through a citation.

1600 (d) Each citation issued under this section shall:

1601 (i) be in writing;

1602 (ii) clearly describe or explain:

1603 (A) the nature of the violation, including a reference to the provision of the chapter,
1604 rule, or order alleged to have been violated;

1605 (B) that the recipient must notify the division in writing within 20 calendar days from
1606 the day on which the citation is served if the recipient wishes to contest the citation at a hearing
1607 conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

1608 (C) the consequences of failure to timely contest the citation or pay the fine assessed by

1609 the citation within the time specified in the citation; and

1610 (iii) be served in accordance with the requirements of the Utah Rules of Civil
1611 Procedure.

1612 (e) If the individual to whom the citation is issued fails to request a hearing to contest
1613 the citation within 20 calendar days from the day on which the citation is served, the citation
1614 becomes the final order of the division and is not subject to further agency review. The period
1615 to contest the citation may be extended by the division for cause.

1616 (f) The division may refuse to issue or renew or suspend, revoke, or place on probation
1617 the license of an individual who fails to comply with a citation after the citation becomes final.

1618 (g) The failure of an applicant for licensure to comply with a citation after it becomes
1619 final is a ground for denial of a license.

1620 (h) No citation may be issued under this section after six months from the day on
1621 which the last violation occurred.

1622 Section 32. Section **59-2-1102** is amended to read:

1623 **59-2-1102. Determination of exemptions by board of equalization -- Appeal --**
1624 **Application for exemption -- Annual statement -- Exceptions.**

1625 (1) (a) For property assessed under Part 3, County Assessment, the county board of
1626 equalization may, after giving notice in a manner prescribed by rule, determine whether certain
1627 property within the county is exempt from taxation.

1628 (b) The decision of the county board of equalization described in Subsection (1)(a)
1629 shall:

1630 (i) be in writing; and

1631 (ii) include:

1632 (A) a statement of facts; and

1633 (B) the statutory basis for its decision.

1634 (c) Except as provided in Subsection (11)(a), a copy of the decision described in
1635 Subsection (1)(a) shall be sent on or before May 15 to the person applying for the exemption.

1636 (2) The county board of equalization shall notify an owner of exempt property that has
1637 previously received an exemption but failed to file an annual statement in accordance with
1638 Subsection (9)(c), of the county board of equalization's intent to revoke the exemption on or
1639 before April 1.

1640 (3) (a) Except as provided in Subsection (8) and subject to Subsection (9), a reduction
1641 may not be made under this part in the value of property and an exemption may not be granted
1642 under this part unless the party affected or the party's agent:

1643 (i) makes and files with the county board of equalization a written application for the
1644 reduction or exemption, verified by signed statement; and

1645 (ii) appears before the county board of equalization and shows facts upon which it is
1646 claimed the reduction should be made, or exemption granted.

1647 (b) Notwithstanding Subsection (9), the county board of equalization may waive:

1648 (i) the application or personal appearance requirements of Subsection (3)(a), (4)(b), or
1649 (9)(a); or

1650 (ii) the annual statement requirements of Subsection (9)(c).

1651 (4) (a) Before the county board of equalization grants any application for exemption or
1652 reduction, the county board of equalization may examine under oath the person or agent
1653 making the application.

1654 (b) Except as provided in Subsection (3)(b), a reduction may not be made or exemption
1655 granted unless the person or the agent making the application attends and answers all questions
1656 pertinent to the inquiry.

1657 (5) For the hearing on the application, the county board of equalization may subpoena
1658 any witnesses, and hear and take any evidence in relation to the pending application.

1659 (6) Except as provided in Subsection (11)(b), the county board of equalization shall
1660 hold hearings and render a written decision to determine any exemption on or before May 1 in
1661 each year.

1662 (7) Any property owner dissatisfied with the decision of the county board of
1663 equalization regarding any reduction or exemption may appeal to the commission under
1664 Section 59-2-1006.

1665 (8) Notwithstanding Subsection (3)(a), a county board of equalization may not require
1666 an owner of property to file an application in accordance with this section in order to claim an
1667 exemption for the property under the following:

1668 (a) Subsections 59-2-1101(3)(a)(~~i~~) through [~~(c)~~] (iii);

1669 (b) Subsection 59-2-1101(3)(~~(f) or (g)~~)(a)(vi) or (vii);

1670 (c) Section 59-2-1110;

1671 (d) Section 59-2-1111;

1672 (e) Section 59-2-1112;

1673 (f) Section 59-2-1113; or

1674 (g) Section 59-2-1114.

1675 (9) (a) Except as provided in Subsections (3)(b) and (9)(b), for property described in
1676 Subsection 59-2-1101(3)[~~(d) or (e)~~](a)(iv) or (v), a county board of equalization shall,
1677 consistent with Subsection (10), require an owner of that property to file an application in
1678 accordance with this section in order to claim an exemption for that property.

1679 (b) Notwithstanding Subsection (9)(a), a county board of equalization may not require
1680 an owner of property described in Subsection 59-2-1101(3)[~~(d) or (e)~~](a)(iv) or (v) to file an
1681 application under Subsection (9)(a) if:

1682 (i) (A) the owner filed an application under Subsection (9)(a); or

1683 (B) the county board of equalization waived the application requirements in accordance
1684 with Subsection (3)(b);

1685 (ii) the county board of equalization determines that the owner may claim an
1686 exemption for that property; and

1687 (iii) the exemption described in Subsection (9)(b)(ii) is in effect.

1688 (c) (i) Except as provided in Subsection (3)(b), for the time period that an owner is
1689 granted an exemption in accordance with this section for property described in Subsection
1690 59-2-1101(3)[~~(d) or (e)~~](a)(iv) or (v), a county board of equalization shall require the owner to
1691 file an annual statement on a form prescribed by the commission establishing that the property
1692 continues to be eligible for the exemption.

1693 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1694 commission shall make rules providing:

1695 (A) the form for the annual statement required by Subsection (9)(c)(i);

1696 (B) the contents of the form for the annual statement required by Subsection (9)(c)(i);

1697 and

1698 (C) procedures and requirements for making the annual statement required by
1699 Subsection (9)(c)(i).

1700 (iii) The commission shall make the form described in Subsection (9)(c)(ii)(A)
1701 available to counties.

1702 (10) (a) For purposes of this Subsection (10), "exclusive use exemption" is as defined
1703 in Section 59-2-1101.

1704 (b) (i) For purposes of Subsection (1)(a), and except as provided in Subsections
1705 (10)(b)(ii) and (iii), when a person acquires property on or after January 1 that qualifies for an
1706 exclusive use exemption, that person may apply for the exclusive use exemption on or before
1707 the later of:

1708 (A) the day set by rule as the deadline for filing a property tax exemption application;
1709 or

1710 (B) 30 days after the day on which the property is acquired.

1711 (ii) Notwithstanding Subsection (10)(b)(i), a person who acquires property on or after
1712 January 1, 2004, and before January 1, 2005, that qualifies for an exclusive use exemption, may
1713 apply for the exclusive use exemption for the 2004 calendar year on or before September 30,
1714 2005.

1715 (iii) Notwithstanding Subsection (10)(b)(i), a person who acquires property on or after
1716 January 1, 2005, and before January 1, 2006, that qualifies for an exclusive use exemption, may
1717 apply for the exclusive use exemption for the 2005 calendar year on or before the later of:

1718 (A) September 30, 2005; or

1719 (B) 30 days after the day on which the property is acquired.

1720 (11) (a) Notwithstanding Subsection (1)(c), if an application for an exemption is filed
1721 under Subsection (10), a county board of equalization shall send a copy of the decision
1722 described in Subsection (1)(c) to the person applying for the exemption on or before the later
1723 of:

1724 (i) May 15; or

1725 (ii) 45 days after the day on which the application for the exemption is filed.

1726 (b) Notwithstanding Subsection (6), if an application for an exemption is filed under
1727 Subsection (10), a county board of equalization shall hold the hearing and render the decision
1728 described in Subsection (6) on or before the later of:

1729 (i) May 1; or

1730 (ii) 30 days after the day on which the application for the exemption is filed.

1731 Section 33. Section **59-7-102** is amended to read:

1732 **59-7-102. Exemptions.**

- 1733 (1) Except as provided in this section, the following are exempt from a tax under this
1734 chapter:
- 1735 (a) an organization exempt under Section 501, Internal Revenue Code;
1736 (b) an organization exempt under Section 528, Internal Revenue Code;
1737 (c) an insurance company that is otherwise taxed on the insurance company's premiums
1738 under Chapter 9, Taxation of Admitted Insurers;
- 1739 (d) a local building authority as defined in Section [~~17A-3-902~~] 17D-2-102;
1740 (e) a farmers' cooperative; or
1741 (f) a public agency, as defined in Section 11-13-103, with respect to or as a result of an
1742 ownership interest in:
- 1743 (i) a project, as defined in Section 11-13-103; or
1744 (ii) facilities providing additional project capacity, as defined in Section 11-13-103.
- 1745 (2) Notwithstanding any other provision in this chapter or Chapter 8, Gross Receipts
1746 Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, a
1747 person not otherwise subject to the tax imposed by this chapter or Chapter 8 is not subject to a
1748 tax imposed by Section 59-7-104, 59-7-201, 59-7-701, or 59-8-104, because of:
- 1749 (a) that person's ownership of tangible personal property located at the premises of a
1750 printer's facility in this state with which the person has contracted for printing; or
- 1751 (b) the activities of the person's employees or agents who are:
- 1752 (i) located solely at the premises of a printer's facility; and
1753 (ii) performing services:
- 1754 (A) related to:
- 1755 (I) quality control;
1756 (II) distribution; or
1757 (III) printing services; and
- 1758 (B) performed by the printer's facility in this state with which the person has contracted
1759 for printing.
- 1760 (3) Notwithstanding Subsection (1), an organization, company, authority, farmers'
1761 cooperative, or public agency exempt from this chapter under Subsection (1) is subject to Part
1762 8, Unrelated Business Income, to the extent provided in Part 8.
- 1763 (4) Notwithstanding Subsection (1)(b), to the extent the income of an organization

1764 described in Subsection (1)(b) is taxable for federal tax purposes under Section 528, Internal
1765 Revenue Code, the organization's income is also taxable under this chapter.

1766 Section 34. Section **59-10-1310** is amended to read:

1767 **59-10-1310. Contribution to Cat and Dog Community Spay and Neuter Program**
1768 **Restricted Account.**

1769 (1) Except as provided in Section 59-10-1304, a resident or nonresident individual that
1770 files an individual income tax return under this chapter may designate on the resident or
1771 nonresident individual's individual income tax return a contribution as provided in this section
1772 to be:

1773 (a) deposited into the Cat and Dog Community Spay and Neuter Program Restricted
1774 Account created by Section [~~26-48-102~~] 4-40-102; and

1775 (b) distributed by the Department of Health as provided in Section [~~26-48-102~~]
1776 4-40-102.

1777 (2) The commission shall:

1778 (a) determine annually the total amount of contributions designated in accordance with
1779 this section; and

1780 (b) credit the amount described in Subsection (2)(a) to the Cat and Dog Community
1781 Spay and Neuter Program Restricted Account created by Section [~~26-48-102~~] 4-40-102.

1782 Section 35. Section **59-12-301** is amended to read:

1783 **59-12-301. Transient room tax -- Rate -- Expenditure of revenues -- Enactment or**
1784 **repeal of tax -- Tax rate change -- Effective date -- Notice requirements.**

1785 (1) (a) A county legislative body may impose a tax on charges for the accommodations
1786 and services described in Subsection 59-12-103(1)(i) at a rate of not to exceed 4.25%
1787 beginning on or after October 1, 2006.

1788 (b) Subject to Subsection (2), the revenues raised from the tax imposed under
1789 Subsection (1)(a) shall be used for the purposes listed in Section 17-31-2.

1790 (c) The tax imposed under Subsection (1)(a) shall be in addition to the tax imposed
1791 under Part 6, Tourism, Recreation, Cultural, [~~and~~] Convention, and Airport Facilities Tax.

1792 (2) If a county legislative body of a county of the first class imposes a tax under this
1793 section, beginning on July 1, 2007, and ending on June 30, 2027, each year the first 15% of the
1794 revenues collected from the tax authorized by Subsection (1)(a) within that county shall be:

- 1795 (a) deposited into the Transient Room Tax Fund created by Section 63M-1-2203; and
1796 (b) expended as provided in Section 63M-1-2203.
- 1797 (3) Subject to Subsection (4), a county legislative body:
1798 (a) may increase or decrease the tax authorized under this part; and
1799 (b) shall regulate the tax authorized under this part by ordinance.
- 1800 (4) (a) For purposes of this Subsection (4):
1801 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
1802 ~~[Annexation to]~~ County Consolidations and Annexations.
- 1803 (ii) "Annexing area" means an area that is annexed into a county.
- 1804 (b) (i) Except as provided in Subsection (4)(c), if, on or after July 1, 2004, a county
1805 enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or
1806 change shall take effect:
1807 (A) on the first day of a calendar quarter; and
1808 (B) after a 90-day period beginning on the date the commission receives notice meeting
1809 the requirements of Subsection (4)(b)(ii) from the county.
- 1810 (ii) The notice described in Subsection (4)(b)(i)(B) shall state:
1811 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;
1812 (B) the statutory authority for the tax described in Subsection (4)(b)(ii)(A);
1813 (C) the effective date of the tax described in Subsection (4)(b)(ii)(A); and
1814 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
1815 (4)(b)(ii)(A), the rate of the tax.
- 1816 (c) (i) Notwithstanding Subsection (4)(b)(i), for a transaction described in Subsection
1817 (4)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
1818 first billing period:
1819 (A) that begins after the effective date of the enactment of the tax or the tax rate
1820 increase; and
1821 (B) if the billing period for the transaction begins before the effective date of the
1822 enactment of the tax or the tax rate increase imposed under this section.
- 1823 (ii) Notwithstanding Subsection (4)(b)(i), for a transaction described in Subsection
1824 (4)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
1825 billing period:

1826 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
1827 and

1828 (B) if the billing period for the transaction begins before the effective date of the repeal
1829 of the tax or the tax rate decrease imposed under this section.

1830 (iii) Subsections (4)(c)(i) and (ii) apply to transactions subject to a tax under
1831 Subsection 59-12-103(1)(i).

1832 (d) (i) Except as provided in Subsection (4)(e), if, for an annexation that occurs on or
1833 after July 1, 2004, the annexation will result in the enactment, repeal, or a change in the rate of
1834 a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

1835 (A) on the first day of a calendar quarter; and

1836 (B) after a 90-day period beginning on the date the commission receives notice meeting
1837 the requirements of Subsection (4)(d)(ii) from the county that annexes the annexing area.

1838 (ii) The notice described in Subsection (4)(d)(i)(B) shall state:

1839 (A) that the annexation described in Subsection (4)(d)(i) will result in an enactment,
1840 repeal, or change in the rate of a tax under this part for the annexing area;

1841 (B) the statutory authority for the tax described in Subsection (4)(d)(ii)(A);

1842 (C) the effective date of the tax described in Subsection(4)(d)(ii)(A); and

1843 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
1844 (4)(d)(ii)(A), the rate of the tax.

1845 (e) (i) Notwithstanding Subsection(4)(d)(i), for a transaction described in Subsection
1846 (4)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
1847 first billing period:

1848 (A) that begins after the effective date of the enactment of the tax or the tax rate
1849 increase; and

1850 (B) if the billing period for the transaction begins before the effective date of the
1851 enactment of the tax or the tax rate increase imposed under this section.

1852 (ii) Notwithstanding Subsection(4)(d)(i), for a transaction described in Subsection
1853 (4)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
1854 billing period:

1855 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
1856 and

1857 (B) if the billing period for the transaction begins before the effective date of the repeal
1858 of the tax or the tax rate decrease imposed under this section.

1859 (iii) Subsections(4)(e)(i) and (ii) apply to transactions subject to a tax under Subsection
1860 59-12-103(1)(i).

1861 Section 36. Section **59-13-102** is amended to read:

1862 **59-13-102. Definitions.**

1863 As used in this chapter:

1864 (1) "Aviation fuel" means fuel that is sold at airports and used exclusively for the
1865 operation of aircraft.

1866 (2) "Clean fuel" means:

1867 (a) the following special fuels:

1868 (i) propane;

1869 (ii) compressed natural gas;

1870 (iii) liquified natural gas; or

1871 (iv) electricity; or

1872 (b) any motor or special fuel that meets the clean fuel vehicle standards in the federal
1873 Clean Air Act Amendments of 1990, Title II.

1874 (3) "Commission" means the State Tax Commission.

1875 (4) (a) "Diesel fuel" means any liquid that is commonly or commercially known,
1876 offered for sale, or used as a fuel in diesel engines.

1877 (b) "Diesel fuel" includes any combustible liquid, by whatever name the liquid may be
1878 known or sold, when the liquid is used in an internal combustion engine for the generation of
1879 power to operate a motor vehicle licensed to operate on the highway, except fuel that is subject
1880 to the tax imposed in Part 2, Motor Fuel, and Part 4, Aviation Fuel, of this chapter.

1881 (5) "Distributor" means any person in this state who:

1882 (a) imports or causes to be imported motor fuel for use, distribution, or sale, whether at
1883 retail or wholesale;

1884 (b) produces, refines, manufactures, or compounds motor fuel in this state for use,
1885 distribution, or sale in this state;

1886 (c) is engaged in the business of purchasing motor fuel for resale in wholesale
1887 quantities to retail dealers of motor fuel and who accounts for his own motor fuel tax liability;

1888 or

1889 (d) for purposes of Part 4, Aviation Fuel, only, makes retail sales of aviation fuel to:

1890 (i) federally certificated air carriers; and

1891 (ii) other persons.

1892 (6) "Dyed diesel fuel" means diesel fuel that is dyed in accordance with 26 U.S.C. Sec.

1893 4082 or United States Environmental Protection Agency or Internal Revenue Service

1894 regulations and that is considered destined for nontaxable off-highway use.

1895 (7) "Exchange agreement" means an agreement between licensed suppliers where one

1896 is a position holder in a terminal who agrees to deliver taxable special fuel to the other supplier

1897 or the other supplier's customer at the loading rack of the terminal where the delivering supplier

1898 holds an inventory position.

1899 (8) "Federally certificated air carrier" means a person who holds a certificate issued by

1900 the Federal Aviation Administration authorizing the person to conduct an all-cargo operation or

1901 scheduled operation, as defined in 14 C.F.R. Sec. [~~119.3~~] 110.2.

1902 (9) "Fuels" means any gas, liquid, solid, mixture, or other energy source which is

1903 generally used in an engine or motor for the generation of power, including aviation fuel, clean

1904 fuel, diesel fuel, motor fuel, and special fuel.

1905 (10) "Highway" means every way or place, of whatever nature, generally open to the

1906 use of the public for the purpose of vehicular travel notwithstanding that the way or place may

1907 be temporarily closed for the purpose of construction, maintenance, or repair.

1908 (11) "Motor fuel" means fuel that is commonly or commercially known or sold as

1909 gasoline or gasohol and is used for any purpose, but does not include aviation fuel.

1910 (12) "Motor fuels received" means:

1911 (a) motor fuels that have been loaded at the refinery or other place into tank cars,

1912 placed in any tank at the refinery from which any withdrawals are made directly into tank

1913 trucks, tank wagons, or other types of transportation equipment, containers, or facilities other

1914 than tank cars, or placed in any tank at the refinery from which any sales, uses, or deliveries not

1915 involving transportation are made directly; or

1916 (b) motor fuels that have been imported by any person into the state from any other

1917 state or territory by tank car, tank truck, pipeline, or any other conveyance at the time when,

1918 and the place where, the interstate transportation of the motor fuel is completed within the state

1919 by the person who at the time of the delivery is the owner of the motor fuel.

1920 (13) (a) "Qualified motor vehicle" means a special fuel-powered motor vehicle used,
1921 designed, or maintained for transportation of persons or property which:

1922 (i) has a gross vehicle weight or registered gross vehicle weight exceeding 26,000
1923 pounds;

1924 (ii) has three or more axles regardless of weight; or

1925 (iii) is used in a combination of vehicles when the weight of the combination of
1926 vehicles exceeds 26,000 pounds gross vehicle weight.

1927 (b) "Qualified motor vehicle" does not include a recreational vehicle not used in
1928 connection with any business activity.

1929 (14) "Rack," as used in Part 3, Special Fuel, means a deck, platform, or open bay which
1930 consists of a series of metered pipes and hoses for the delivery or removal of diesel fuel from a
1931 refinery or terminal into a motor vehicle, rail car, or vessel.

1932 (15) "Removal," as used in Part 3, Special Fuel, means the physical transfer of diesel
1933 fuel from a production, manufacturing, terminal, or refinery facility and includes use of diesel
1934 fuel. Removal does not include:

1935 (a) loss by evaporation or destruction; or

1936 (b) transfers between refineries, racks, or terminals.

1937 (16) (a) "Special fuel" means any fuel regardless of name or character that:

1938 (i) is usable as fuel to operate or propel a motor vehicle upon the public highways of
1939 the state; and

1940 (ii) is not taxed under the category of aviation or motor fuel.

1941 (b) Special fuel includes:

1942 (i) fuels that are not conveniently measurable on a gallonage basis; and

1943 (ii) diesel fuel.

1944 (17) "Supplier," as used in Part 3, Special Fuel, means a person who:

1945 (a) imports or acquires immediately upon importation into this state diesel fuel from
1946 within or without a state, territory, or possession of the United States or the District of
1947 Columbia;

1948 (b) produces, manufactures, refines, or blends diesel fuel in this state;

1949 (c) otherwise acquires for distribution or sale in this state, diesel fuel with respect to

1950 which there has been no previous taxable sale or use; or

1951 (d) is in a two party exchange where the receiving party is deemed to be the supplier.

1952 (18) "Terminal," as used in Part 3, Special Fuel, means a facility for the storage of
1953 diesel fuel which is supplied by a motor vehicle, pipeline, or vessel and from which diesel fuel
1954 is removed for distribution at a rack.

1955 (19) "Two party exchange" means a transaction in which special fuel is transferred
1956 between licensed suppliers pursuant to an exchange agreement.

1957 (20) "Undyed diesel fuel" means diesel fuel that is not subject to the dyeing
1958 requirements in accordance with 26 U.S.C. Sec. 4082 or United States Environmental
1959 Protection Agency or Internal Revenue Service regulations.

1960 (21) "Use," as used in Part 3, Special Fuel, means the consumption of special fuel for
1961 the operation or propulsion of a motor vehicle upon the public highways of the state and
1962 includes the reception of special fuel into the fuel supply tank of a motor vehicle.

1963 (22) "User," as used in Part 3, Special Fuel, means any person who uses special fuel
1964 within this state in an engine or motor for the generation of power to operate or propel a motor
1965 vehicle upon the public highways of the state.

1966 (23) "Ute tribal member" means an enrolled member of the Ute tribe.

1967 (24) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

1968 (25) "Ute trust land" means the lands:

1969 (a) of the Uintah and Ouray Reservation that are held in trust by the United States for
1970 the benefit of:

1971 (i) the Ute tribe;

1972 (ii) an individual; or

1973 (iii) a group of individuals; or

1974 (b) specified as trust land by agreement between the governor and the Ute tribe meeting
1975 the requirements of Subsections 59-13-201.5(3) and 59-13-301.5(3).

1976 Section 37. Section **61-1-106** is amended to read:

1977 **61-1-106. Award for reporter.**

1978 (1) Subject to Section 61-1-108 and the other provisions of this section, the
1979 commission may award an award to one or more reporters who voluntarily provide original
1980 information to the commission or division that leads to the successful enforcement of a covered

1981 judicial or administrative action.

1982 (2) The division shall pay an award under this section from the fund.

1983 (3) (a) Subject to the other provisions of this section, the commission may determine
1984 the amount of award paid under this section, except that in determining the amount the
1985 commission shall consider:

1986 (i) the significance of the original information provided by the reporter to the success
1987 of the covered judicial or administrative action;

1988 (ii) the degree of assistance provided by the reporter in relation to the covered judicial
1989 or administrative action;

1990 (iii) any costs of legal representation for the reporter in relation to the covered judicial
1991 or administrative action;

1992 (iv) the programmatic interest of the commission in deterring a violation of this chapter
1993 by making an award to a reporter who provides original information that leads to the successful
1994 enforcement of this chapter; and

1995 (v) any other relevant factor that the division may establish by rule.

1996 (b) The aggregate amount of awards that the commission may award for a specific
1997 covered judicial or administrative action may not exceed:

1998 (i) the balance in the fund as of the date the awards are determined; or

1999 (ii) 30%, in total, of what is collected of the monetary sanction imposed in the judicial
2000 or administrative action.

2001 (4) The commission may not award a reporter under this section if the reporter:

2002 (a) is convicted of a criminal violation related to the covered judicial or administrative
2003 action for which the reporter otherwise could receive an award;

2004 (b) gains the original information through the performance of an audit of financial
2005 statements required under securities laws and for whom providing the original information
2006 would violate 15 U.S.C. Sec. 78j-1;

2007 (c) fails to provide the original information to the commission or division in
2008 accordance with Section 61-1-103;

2009 (d) knowingly or recklessly makes a false, fictitious, or fraudulent statement or
2010 misrepresentation;

2011 (e) uses a false writing or document knowing that, or with reckless disregard as to

2012 whether, the writing or document contains false, fictitious, or fraudulent information;

2013 (f) knows that, or has a reckless disregard as to whether, the disclosure is of original
2014 information that is false or frivolous;

2015 (g) has a legal duty to report the original information to the commission or division; or

2016 (h) the employer or entity in the covered judicial or administrative action that relates to
2017 the information provided by the reporter is subject to the jurisdiction of the Securities and
2018 Exchange Commission under Section 21F of the Securities Exchange Act, 15 U.S.C. Sec.
2019 78u-6, and regulations issued under [~~this~~] that section.

2020 Section 38. Section **61-2c-402** is amended to read:

2021 **61-2c-402. Disciplinary action.**

2022 (1) Subject to the requirements of Section 61-2c-402.1, the commission, with the
2023 concurrence of the division, may impose a sanction described in Subsection (2) against a
2024 person if the person:

2025 (a) (i) is a licensee or person required to be licensed under this chapter; and

2026 (ii) violates this chapter; or

2027 (b) (i) is a certified education provider or person required to be certified to provide
2028 prelicensing or continuing education under this chapter; and

2029 (ii) violates this chapter.

2030 (2) The commission, with the concurrence of the director, may against a person
2031 described in Subsection (1):

2032 (a) impose an educational requirement;

2033 (b) impose a civil penalty against the individual or entity in an amount not to exceed
2034 the greater of:

2035 (i) \$5,000 for each violation; or

2036 (ii) the amount equal to any gain or economic benefit derived from each violation;

2037 (c) deny an application for an original license;

2038 (d) do any of the following to a license under this chapter:

2039 (i) suspend;

2040 (ii) revoke;

2041 (iii) place on probation;

2042 (iv) deny renewal;

2043 (v) deny reinstatement; or
2044 (vi) in the case of a denial of a license or a suspension that extends to the expiration
2045 date of a license, set a waiting period for a person to apply for a license under this chapter;
2046 (e) issue a cease and desist order;
2047 (f) require the reimbursement of the division of costs incurred by the division related to
2048 the recovery, storage, or destruction of a record that the person disposes of in a manner that
2049 violates this chapter or a rule made under this chapter;
2050 (g) modify a sanction described in Subsections (2)(a) through (f) if the commission
2051 finds that the person complies with court ordered restitution; or
2052 (h) impose any combination of sanctions described in this Subsection (2).
2053 (3) (a) If the commission, with the concurrence of the division, issues an order that
2054 orders a fine or educational requirements as part of a disciplinary action against a person,
2055 including a stipulation and order, the commission shall state in the order the deadline by which
2056 the person shall comply with the fine or educational requirements.
2057 (b) If a person fails to comply with a stated deadline:
2058 (i) the person's license or certificate is automatically suspended:
2059 (A) beginning the day specified in the order as the deadline for compliance; and
2060 (B) ending the day on which the person complies in full with the order; and
2061 (ii) if the person fails to pay a fine required by an order, the division may begin a
2062 collection process:
2063 (A) established by the division by rule made in accordance with Title 63G, Chapter 3,
2064 Utah Administrative Rulemaking Act; and
2065 (B) subject to Title 63A, Chapter [8,] 3, Part 5, Office of State Debt Collection.
2066 (4) (a) A person whose license was revoked under this chapter before May 11, 2010,
2067 may request that the revocation be converted to a suspension under this Subsection (4):
2068 (i) if the revocation was not as a result of a felony conviction involving fraud,
2069 misrepresentation, deceit, dishonesty, breach of trust, or money laundering; and
2070 (ii) by filing a written request with the division.
2071 (b) Upon receipt of a request to convert a revocation under this Subsection (4), the
2072 commission, with the concurrence of the director, shall determine whether to convert the
2073 revocation.

2074 (c) The commission may delegate to the division the authority to make a decision on
2075 whether to convert a revocation.

2076 (d) If the division, acting under Subsection (4)(c), denies a request to convert a
2077 revocation, the person who requests the conversion may appeal the decision in a hearing
2078 conducted by the commission:

- 2079 (i) after the division denies the request to convert the revocation; and
- 2080 (ii) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

2081 (e) The commission may delegate to the division or an administrative law judge the
2082 authority to conduct a hearing described in Subsection (4)(d).

2083 Section 39. Section **61-2e-402** is amended to read:

2084 **61-2e-402. Enforcement -- Immunity for board.**

2085 (1) (a) The board may order disciplinary action, with the concurrence of the division,
2086 against:

- 2087 (i) an entity registered under this chapter;
- 2088 (ii) an entity required to be registered under this chapter; or
- 2089 (iii) a controlling person of an entity described in this Subsection (1)(a).

2090 (b) If the board, with the concurrence of the division, makes a finding described in
2091 Subsection (2) pursuant to an adjudicative proceeding conducted in accordance with Title 63G,
2092 Chapter 4, Administrative Procedures Act, the board, with the concurrence of the division,
2093 may:

- 2094 (i) revoke, suspend, or place an entity's registration on probation;
- 2095 (ii) deny an entity's original registration;
- 2096 (iii) deny an entity's renewal registration;
- 2097 (iv) in the case of denial or revocation of a registration, set a waiting period for an
2098 applicant to apply for a registration under this chapter;
- 2099 (v) order remedial education;
- 2100 (vi) impose a civil penalty upon a person not to exceed the greater of:
2101 (A) \$5,000 for each violation; or
2102 (B) the amount of any gain or economic benefit from a violation;
- 2103 (vii) issue a cease and desist order; or
- 2104 (viii) do a combination of Subsections (1)(b)(i) through (vii).

2105 (2) Subsection (1) applies if the board finds, with the concurrence of the division, that a
2106 person has engaged in, is attempting to, or has attempted to engage in:

2107 (a) an act that violates this chapter;

2108 (b) an act that violates a rule made under this chapter;

2109 (c) procuring a registration for the person or another person by fraud,
2110 misrepresentation, or deceit;

2111 (d) paying money or attempting to pay money other than a fee provided for by this
2112 chapter to an employee of the division to procure a registration under this chapter;

2113 (e) an act or omission in the business of an appraisal management company that
2114 constitutes dishonesty, fraud, or misrepresentation;

2115 (f) unprofessional conduct as defined by statute or rule; or

2116 (g) other conduct that constitutes dishonest dealing.

2117 (3) (a) If the board, with the concurrence of the director, issues an order that orders a
2118 fine or remedial education as part of a disciplinary action against a person, including a
2119 stipulation and order, the board shall state in the order the deadline by which the person shall
2120 comply with the fine or remedial education requirements.

2121 (b) If a person fails to comply by the stated deadline, the person's registration shall be
2122 immediately and automatically suspended:

2123 (i) beginning the day specified in the order as the deadline for compliance; and

2124 (ii) ending the day on which the person complies in full with the order.

2125 (c) If a person fails to pay a fine required by an order, the division shall begin a
2126 collection process:

2127 (i) established by the division by rule made in accordance with Title 63G, Chapter 3,
2128 Utah Administrative Rulemaking Act; and

2129 (ii) subject to Title 63A, Chapter [8;] 3, Part 5, Office of State Debt Collection.

2130 (4) To the extent permitted by federal law, the board, with the concurrence of the
2131 division, may bring a disciplinary proceeding under this chapter for a violation of 15 U.S.C.
2132 Sec. 1639e(i).

2133 (5) A member of the board is immune from a civil action or criminal prosecution for a
2134 disciplinary proceeding under this chapter if:

2135 (a) the action is taken without malicious intent; and

2136 (b) in the reasonable belief that the action taken was taken pursuant to the powers and
2137 duties vested in a member of the board under this chapter.

2138 Section 40. Section **61-2f-404** is amended to read:

2139 **61-2f-404. Disciplinary action -- Judicial review.**

2140 (1) (a) On the basis of a violation of this chapter, the commission with the concurrence
2141 of the director, may issue an order:

2142 (i) imposing an educational requirement;

2143 (ii) imposing a civil penalty not to exceed the greater of:

2144 (A) \$5,000 for each violation; or

2145 (B) the amount of any gain or economic benefit derived from each violation;

2146 (iii) taking any of the following actions related to a license, registration, or certificate:

2147 (A) revoking;

2148 (B) suspending;

2149 (C) placing on probation;

2150 (D) denying the renewal, reinstatement, or application for an original license,
2151 registration, or certificate; or

2152 (E) in the case of denial or revocation of a license, registration, or certificate, setting a
2153 waiting period for an applicant to apply for a license, registration, or certificate under this title;

2154 (iv) issuing a cease and desist order;

2155 (v) modifying an action described in Subsections (1)(a)(i) through (iv) if the
2156 commission finds that the person complies with court ordered restitution; or

2157 (vi) doing any combination of Subsections (1)(a)(i) through (v).

2158 (b) (i) If the commission with the concurrence of the director issues an order that
2159 orders a fine or educational requirements as part of a disciplinary action against a person,
2160 including a stipulation and order, the commission shall state in the order the deadline by which
2161 the person shall comply with the fine or educational requirements.

2162 (ii) If a person fails to comply by the stated deadline:

2163 (A) the person's license, registration, or certificate is automatically suspended:

2164 (I) beginning the day specified in the order as the deadline for compliance; and

2165 (II) ending the day on which the person complies in full with the order; and

2166 (B) if the person fails to pay a fine required by an order, the division may begin a

2167 collection process:

2168 (I) established by the division, with the concurrence of the commission, by rule made
2169 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

2170 (II) subject to Title 63A, Chapter [8;] 3, Part 5, Office of State Debt Collection.

2171 (c) If a licensee is an active sales agent or active associate broker, the division shall
2172 inform the principal broker with whom the licensee is affiliated of the charge and of the time
2173 and place of any hearing.

2174 (2) (a) An applicant, certificate holder, licensee, registrant, or person aggrieved,
2175 including the complainant, may obtain agency review by the executive director and judicial
2176 review of any adverse ruling, order, or decision of the division.

2177 (b) If an applicant, certificate holder, registrant, or licensee prevails in the appeal and
2178 the court finds that the state action was undertaken without substantial justification, the court
2179 may award reasonable litigation expenses to the applicant, certificate holder, registrant, or
2180 licensee as provided under Title 78B, Chapter 8, Part 5, Small Business Equal Access to
2181 Justice Act.

2182 (c) (i) An order, ruling, or decision of the division shall take effect and become
2183 operative 30 days after the service of the order, ruling, or decision unless otherwise provided in
2184 the order.

2185 (ii) If an appeal is taken by a licensee, registrant, or certificate holder, the division may
2186 stay enforcement of an order, ruling, or decision in accordance with Section 63G-4-405.

2187 (iii) An appeal is governed by the Utah Rules of Appellate Procedure.

2188 (3) The commission and the director shall comply with the procedures and
2189 requirements of Title 63G, Chapter 4, Administrative Procedures Act, in an adjudicative
2190 proceeding.

2191 Section 41. Section **61-2g-502** is amended to read:

2192 **61-2g-502. Disciplinary action -- Grounds.**

2193 (1) (a) The board may order disciplinary action, with the concurrence of the division,
2194 against a person:

2195 (i) registered, licensed, or certified under this chapter; or

2196 (ii) required to be registered, licensed, or certified under this chapter.

2197 (b) On the basis of a ground listed in Subsection (2) for disciplinary action, board

2198 action may include:

2199 (i) revoking, suspending, or placing a person's registration, license, or certification on
2200 probation;

2201 (ii) denying a person's original registration, license, or certification;

2202 (iii) denying a person's renewal license, certification, or registration;

2203 (iv) in the case of denial or revocation of a registration, license, or certification, setting
2204 a waiting period for an applicant to apply for a registration, license, or certification under this
2205 chapter;

2206 (v) ordering remedial education;

2207 (vi) imposing a civil penalty upon a person not to exceed the greater of:

2208 (A) \$5,000 for each violation; or

2209 (B) the amount of any gain or economic benefit from a violation;

2210 (vii) issuing a cease and desist order;

2211 (viii) modifying an action described in Subsections (1)(b)(i) through (vii) if the board,
2212 with the concurrence of the division, finds that the person complies with court ordered
2213 restitution; or

2214 (ix) doing any combination of Subsections (1)(b)(i) through (viii).

2215 (c) (i) If the board or division issues an order that orders a fine or educational
2216 requirements as part of the disciplinary action against a person, including a stipulation and
2217 order, the board or division shall state in the order the deadline by which the person shall
2218 comply with the fine or educational requirements.

2219 (ii) If a person fails to comply with a stated deadline:

2220 (A) the person's license, certificate, or registration is automatically suspended:

2221 (I) beginning on the day specified in the order as the deadline for compliance; and

2222 (II) ending the day on which the person complies in full with the order; and

2223 (B) if the person fails to pay a fine required by an order, the division may begin a
2224 collection process:

2225 (I) established by the division by rule made in accordance with Title 63G, Chapter 3,
2226 Utah Administrative Rulemaking Act; and

2227 (II) subject to Title 63A, Chapter [8;] 3, Part 5, Office of State Debt Collection.

2228 (2) The following are grounds for disciplinary action under this section:

- 2229 (a) procuring or attempting to procure a registration, license, or certification under this
2230 chapter:
- 2231 (i) by fraud; or
- 2232 (ii) by making a false statement, submitting false information, or making a material
2233 misrepresentation in an application filed with the division;
- 2234 (b) paying money or attempting to pay money other than a fee provided for by this
2235 chapter to a member or employee of the division to procure a registration, license, or
2236 certification under this chapter;
- 2237 (c) an act or omission in the practice of real estate appraising that constitutes
2238 dishonesty, fraud, or misrepresentation;
- 2239 (d) entry of a judgment against a registrant, licensee, or certificate holder on grounds of
2240 fraud, misrepresentation, or deceit in the making of an appraisal of real estate;
- 2241 (e) a guilty plea to a criminal offense involving moral turpitude that is held in
2242 abeyance, or a conviction, including a conviction based upon a plea of guilty or nolo
2243 contendere, of a criminal offense involving moral turpitude;
- 2244 (f) engaging in the business of real estate appraising under an assumed or fictitious
2245 name not properly registered in this state;
- 2246 (g) paying a finder's fee or a referral fee to a person not licensed or certified under this
2247 chapter in connection with an appraisal of real estate or real property in this state;
- 2248 (h) making a false or misleading statement in:
- 2249 (i) that portion of a written appraisal report that deals with professional qualifications;
- 2250 or
- 2251 (ii) testimony concerning professional qualifications;
- 2252 (i) violating or disregarding:
- 2253 (i) this chapter;
- 2254 (ii) an order of:
- 2255 (A) the board; or
- 2256 (B) the division, in a case when the board delegates to the division the authority to
2257 make a decision on behalf of the board; or
- 2258 (iii) a rule issued under this chapter;
- 2259 (j) violating the confidential nature of governmental records to which a person

2260 registered, licensed, certified, or approved as an expert under this chapter gained access
2261 through employment or engagement as an appraiser by a governmental agency;

2262 (k) accepting a contingent fee for performing an appraisal if in fact the fee is or was
2263 contingent upon:

2264 (i) the appraiser reporting a predetermined analysis, opinion, or conclusion;

2265 (ii) the analysis, opinion, conclusion, or valuation reached; or

2266 (iii) the consequences resulting from the appraisal assignment;

2267 (l) unprofessional conduct as defined by statute or rule;

2268 (m) in the case of a dual licensed title licensee as defined in Section 31A-2-402:

2269 (i) providing a title insurance product or service without the approval required by
2270 Section 31A-2-405; or

2271 (ii) knowingly providing false or misleading information in the statement required by
2272 Subsection 31A-2-405(2); or

2273 (n) other conduct that constitutes dishonest dealing.

2274 Section 42. Section **62A-5-104** is amended to read:

2275 **62A-5-104. Director -- Qualifications -- Responsibilities.**

2276 (1) The director of the division shall be appointed by the executive director.

2277 (2) The director shall have a bachelor's degree from an accredited university or college,
2278 be experienced in administration, and be knowledgeable in developmental disabilities,
2279 intellectual [~~disability~~] disabilities, and other disabilities.

2280 (3) The director is the administrative head of the division.

2281 (4) The director shall appoint the superintendent of the developmental center and the
2282 necessary and appropriate administrators for other facilities operated by the division with the
2283 concurrence of the executive director.

2284 Section 43. Section **62A-11-104** is amended to read:

2285 **62A-11-104. Duties of office.**

2286 (1) The office has the following duties:

2287 (a) except as provided in Subsection (2), to provide child support services if:

2288 (i) the office has received an application for child support services;

2289 (ii) the state has provided public assistance; or

2290 (iii) a child lives out of the home in the protective custody, temporary custody, or

2291 custody or care of the state;

2292 (b) to carry out the obligations of the department contained in this chapter and in Title
2293 78B, [~~Chapters~~] Chapter 12, Utah Child Support Act, [~~Chapter 15, Utah Uniform Parentage~~
2294 Act, and] Chapter 14, Uniform Interstate Family Support Act, and Chapter 15, Utah Uniform
2295 Parentage Act, for the purpose of collecting child support;

2296 (c) to collect money due the department which could act to offset expenditures by the
2297 state;

2298 (d) to cooperate with the federal government in programs designed to recover health
2299 and social service funds;

2300 (e) to collect civil or criminal assessments, fines, fees, amounts awarded as restitution,
2301 and reimbursable expenses owed to the state or any of its political subdivisions, if the office
2302 has contracted to provide collection services;

2303 (f) to implement income withholding for collection of child support in accordance with
2304 Part 4, Income Withholding in IV-D Cases, of this chapter;

2305 (g) to enter into agreements with financial institutions doing business in the state to
2306 develop and operate, in coordination with such financial institutions, a data match system in the
2307 manner provided for in Section 62A-11-304.5;

2308 (h) to establish and maintain the state case registry in the manner required by the Social
2309 Security Act, 42 U.S.C. Sec. 654a, which shall include a record in each case of:

2310 (i) the amount of monthly or other periodic support owed under the order, and other
2311 amounts, including arrearages, interest, late payment penalties, or fees, due or overdue under
2312 the order;

2313 (ii) any amount described in Subsection (1)(h)(i) that has been collected;

2314 (iii) the distribution of collected amounts;

2315 (iv) the birth date of any child for whom the order requires the provision of support;

2316 and

2317 (v) the amount of any lien imposed with respect to the order pursuant to this part;

2318 (i) to contract with the Department of Workforce Services to establish and maintain the
2319 new hire registry created under Section 35A-7-103;

2320 (j) to determine whether an individual who has applied for or is receiving cash
2321 assistance or Medicaid is cooperating in good faith with the office as required by Section

2322 62A-11-307.2;

2323 (k) to finance any costs incurred from collections, fees, General Fund appropriation,
2324 contracts, and federal financial participation; and

2325 (l) to provide notice to a noncustodial parent in accordance with Section 62A-11-304.4
2326 of the opportunity to contest the accuracy of allegations by a custodial parent of nonpayment of
2327 past-due child support, prior to taking action against a noncustodial parent to collect the alleged
2328 past-due support.

2329 (2) The office may not provide child support services to the Division of Child and
2330 Family Services for a calendar month when the child to whom the child support services relate
2331 is:

2332 (a) in the custody of the Division of Child and Family Services; and

2333 (b) lives in the home of a custodial parent of the child for more than seven consecutive
2334 days, regardless of whether:

2335 (i) the greater than seven consecutive day period starts during one month and ends in
2336 the next month; and

2337 (ii) the child is living in the home on a trial basis.

2338 (3) The Division of Child and Family Services is not entitled to child support, for a
2339 child to whom the child support relates, for a calendar month when child support services may
2340 not be provided under Subsection (2).

2341 Section 44. Section **63A-2-401** is amended to read:

2342 **63A-2-401. State surplus property program -- Definitions -- Administration.**

2343 (1) As used in this part, "agency" means:

2344 (a) the Utah Departments of Administrative Services, Agriculture and Food, Alcoholic
2345 Beverage Control, Commerce, Community and Culture, Corrections, Workforce Services,
2346 Health, Human Resource Management, Human Services, Insurance, Natural Resources, Public
2347 Safety, Technology Services, and Transportation and the Labor Commission;

2348 (b) the Utah Offices of the Auditor, Attorney General, Court Administrator, Utah
2349 Office for Victims of Crime, Rehabilitation, and Treasurer;

2350 (c) the Public Service Commission and State Tax Commission;

2351 (d) the State Boards of Education, Pardons and Parole, and Regents;

2352 (e) the Career Service Review Office;

- 2353 (f) other state agencies designated by the governor;
- 2354 (g) the legislative branch, the judicial branch, and the State Board of Regents; and
- 2355 (h) an institution of higher education, its president, and its board of trustees for
- 2356 purposes of Section 63A-2-402.
- 2357 (2) (a) The division shall make rules establishing a state surplus property program that
- 2358 meets the requirements of this chapter by following the procedures and requirements of Title
- 2359 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 2360 (b) The rules shall include:
- 2361 (i) a requirement prohibiting the transfer of surplus property from one agency to
- 2362 another agency without written approval from the division;
- 2363 (ii) procedures and requirements governing division administration requirements that
- 2364 an agency must follow;
- 2365 (iii) requirements governing purchase priorities;
- 2366 (iv) requirements governing accounting, reimbursement, and payment procedures;
- 2367 (v) procedures for collecting bad debts;
- 2368 (vi) requirements and procedures for disposing of firearms;
- 2369 (vii) the elements of the rates or other charges assessed by the division for services and
- 2370 handling;
- 2371 (viii) procedures governing the timing and location of public sales of inventory
- 2372 property; and
- 2373 (ix) procedures governing the transfer of information technology equipment by state
- 2374 agencies directly to public schools.
- 2375 (c) The division shall report all transfers of information technology equipment by state
- 2376 agencies to public schools to the legislative [~~Interim~~] Education Interim Committee at the end
- 2377 of each fiscal year.
- 2378 (3) In creating and administering the program, the division shall:
- 2379 (a) when conditions, inventory, and demand permit:
- 2380 (i) establish facilities to store inventory property at geographically dispersed locations
- 2381 throughout the state; and
- 2382 (ii) hold public sales of property at geographically dispersed locations throughout the
- 2383 state;

2384 (b) establish, after consultation with the agency requesting the sale of surplus property,
2385 the price at which the surplus property shall be sold; and

2386 (c) transfer proceeds arising from the sale of state surplus property to the agency
2387 requesting the sale in accordance with Title 63J, Chapter 1, Budgetary Procedures Act, less a
2388 fee approved in accordance with Sections 63A-1-114 and 63J-1-410, to pay the costs of
2389 administering the surplus property program.

2390 (4) Unless specifically exempted from this part by explicit reference to this part, each
2391 state agency shall dispose of and acquire surplus property only by participating in the division's
2392 program.

2393 Section 45. Section **63C-4-106** is amended to read:

2394 **63C-4-106. Evaluation of federal law and policy -- Response.**

2395 (1) As used in this chapter:

2396 (a) "Federal governmental entity" means:

2397 (i) the President of the United States;

2398 (ii) the United States Congress;

2399 (iii) a United States agency; or

2400 (iv) an employee or official appointed by the President of the United States.

2401 (b) "Federal law" means:

2402 (i) an executive order by the President of the United States;

2403 (ii) a statute passed by the United States Congress;

2404 (iii) a regulation adopted by a United States agency; or

2405 (iv) a policy statement, guidance, or action by:

2406 (A) a United States agency; or

2407 (B) an employee or official appointed by the President of the United States.

2408 (c) "United States agency" means a department, agency, authority, commission,
2409 council, board, office, bureau, or other administrative unit of the executive branch of the
2410 United States government.

2411 (2) In accordance with Section 63C-4-107, the Federalism Subcommittee shall evaluate
2412 a federal law submitted to the Federalism Subcommittee by a council member.

2413 (3) The Federalism Subcommittee may request information regarding a federal law
2414 under evaluation from a United States Senator or Representative elected from the state.

2415 (4) If the Federalism Subcommittee finds that a federal law is not authorized by the
2416 United States Constitution or violates the principle of federalism as described in Subsection
2417 63C-4-107(2), the Federalism Subcommittee chair may:

2418 (a) request from a United States Senator or Representative elected from the state:

2419 (i) information about the federal law; or

2420 (ii) assistance in communicating with a federal governmental entity regarding the
2421 federal law;

2422 (b) (i) give written notice of the evaluation required by Subsection (2) to the federal
2423 governmental entity responsible for adopting or administering the federal law; and

2424 (ii) request a response by a specific date to the evaluation from the federal
2425 governmental entity; and

2426 (c) request a meeting, conducted in person or by electronic means, with the federal
2427 governmental entity and a council member, a representative from another state, or a United
2428 States Senator or Representative elected from the state to discuss the evaluation of federal law
2429 and any possible remedy.

2430 (5) The Federalism Subcommittee may recommend to the governor that the governor
2431 call a special session of the Legislature to give the Legislature an opportunity to respond to the
2432 subcommittee's evaluation of a federal law.

2433 (6) The Federalism Subcommittee chair may coordinate the evaluation of and response
2434 to federal law with another state as provided in Section [~~63G-4-108~~] 63C-4-108.

2435 (7) The Federalism Subcommittee shall submit a report by electronic mail that
2436 summarizes action taken in accordance with this section to the Government Operations Interim
2437 Committee on May 20 and October 20 of each year.

2438 Section 46. Section **63E-1-102** is amended to read:

2439 **63E-1-102. Definitions.**

2440 As used in this title:

2441 (1) "Authorizing statute" means the statute creating an entity as an independent entity.

2442 (2) "Committee" means the Retirement and Independent Entities Committee created in
2443 Section 63E-1-201.

2444 (3) "Independent corporation" means a corporation incorporated in accordance with
2445 Chapter 2, Independent Corporations Act.

2446 (4) (a) "Independent entity" means an entity having a public purpose relating to the
2447 state or its citizens that is individually created by the state or is given by the state the right to
2448 exist and conduct its affairs as an:

2449 (i) independent state agency; or

2450 (ii) independent corporation.

2451 (b) "Independent entity" includes the:

2452 (i) Dairy Commission created in Title 4, Chapter 22, Dairy Promotion Act;

2453 (ii) Heber Valley Historic Railroad Authority created in Title 63H, Chapter 4, Heber
2454 Valley Historic Railroad Authority;

2455 (iii) Utah State Railroad Museum Authority created in Title 63H, Chapter 5, Utah State
2456 Railroad Museum Authority;

2457 (iv) Utah Science Center Authority created in Title 63H, Chapter 3, Utah Science
2458 Center Authority;

2459 (v) Utah Housing Corporation created in Title 9, Chapter 4, Part 9, Utah Housing
2460 Corporation Act;

2461 (vi) Utah State Fair Corporation created in Title 63H, Chapter 6, Utah State Fair
2462 Corporation Act;

2463 (vii) Workers' Compensation Fund created in Title 31A, Chapter 33, Workers'
2464 Compensation Fund;

2465 (viii) Utah State Retirement Office created in Title 49, Chapter 11, Utah State
2466 Retirement Systems Administration;

2467 (ix) School and Institutional Trust Lands Administration created in Title 53C, Chapter
2468 1, Part 2, School and Institutional Trust Lands Administration;

2469 (x) Utah Communications Agency Network created in Title 63C, Chapter 7, Utah
2470 Communications Agency Network Act;

2471 (xi) Utah Generated Renewable Energy Electricity Network Authority created in Title
2472 63H, Chapter 2, Utah Generated Renewable Energy Electricity Network Authority Act; and

2473 (xii) Utah Capital Investment Corporation created in Title 63M, Chapter 1, Part 12,
2474 Utah Venture Capital Enhancement Act.

2475 (c) Notwithstanding this Subsection (4), "independent entity" does not include:

2476 (i) the Public Service Commission of Utah created in Section 54-1-1;

- 2477 (ii) an institution within the state system of higher education;
- 2478 (iii) a city, county, or town;
- 2479 (iv) a local school district;
- 2480 (v) a local district under Title 17B, Limited Purpose Local Government Entities - Local
- 2481 Districts; or
- 2482 (vi) a special service district under Title 17D, Chapter 1, Special Service District Act.
- 2483 (5) "Independent state agency" means an entity that is created by the state, but is
- 2484 independent of the governor's direct supervisory control.
- 2485 (6) "Money held in trust" means money maintained for the benefit of:
- 2486 (a) one or more private individuals, including public employees;
- 2487 (b) one or more public or private entities; or
- 2488 (c) the owners of a quasi-public corporation.
- 2489 (7) "Public corporation" means an artificial person, public in ownership, individually
- 2490 created by the state as a body politic and corporate for the administration of a public purpose
- 2491 relating to the state or its citizens.
- 2492 (8) "Quasi-public corporation" means an artificial person, private in ownership,
- 2493 individually created as a corporation by the state which has accepted from the state the grant of
- 2494 a franchise or contract involving the performance of a public purpose relating to the state or its
- 2495 citizens.
- 2496 Section 47. Section **63F-1-303** is amended to read:
- 2497 **63F-1-303. Executive branch agencies -- Subscription by institutions.**
- 2498 (1) An executive branch agency in accordance with its agency information technology
- 2499 plan approved by the chief information officer shall:
- 2500 (a) subscribe to the information technology services provided by the department; or
- 2501 (b) contract with one or more alternate private providers of information technology
- 2502 services if the chief information officer determines that the purchase of the services from a
- 2503 private provider will:
- 2504 (i) result in:
- 2505 (A) cost savings;
- 2506 (B) increased efficiency; or
- 2507 (C) improved quality of services; and

2508 (ii) not impair the interoperability of the state's information technology services.

2509 (2) An institution of higher education may subscribe to the services provided by the
2510 department if:

2511 (a) the president of the institution recommends that the institution subscribe to the
2512 services of the department; and

2513 (b) the Board of Regents determines that subscription to the services of the department
2514 will result in cost savings or increased efficiency to the institution.

2515 (3) The following may subscribe to information technology services by requesting that
2516 the services be provided from the department:

2517 (a) the legislative branch;

2518 (b) the judicial branch;

2519 (c) the State Board of Education;

2520 (d) a political subdivision of the state;

2521 (e) an agency of the federal government;

2522 (f) an independent entity as defined in Section 63E-1-102; and

2523 (g) an elective constitutional officer of the executive department as defined in

2524 Subsection 63F-1-102~~(7)~~(6)(b).

2525 Section 48. Section **63G-2-103** is amended to read:

2526 **63G-2-103. Definitions.**

2527 As used in this chapter:

2528 (1) "Audit" means:

2529 (a) a systematic examination of financial, management, program, and related records
2530 for the purpose of determining the fair presentation of financial statements, adequacy of
2531 internal controls, or compliance with laws and regulations; or

2532 (b) a systematic examination of program procedures and operations for the purpose of
2533 determining their effectiveness, economy, efficiency, and compliance with statutes and
2534 regulations.

2535 (2) "Chronological logs" mean the regular and customary summary records of law
2536 enforcement agencies and other public safety agencies that show:

2537 (a) the time and general nature of police, fire, and paramedic calls made to the agency;

2538 and

- 2539 (b) any arrests or jail bookings made by the agency.
- 2540 (3) "Classification," "classify," and their derivative forms mean determining whether a
- 2541 record series, record, or information within a record is public, private, controlled, protected, or
- 2542 exempt from disclosure under Subsection 63G-2-201(3)(b).
- 2543 (4) (a) "Computer program" means:
- 2544 (i) a series of instructions or statements that permit the functioning of a computer
- 2545 system in a manner designed to provide storage, retrieval, and manipulation of data from the
- 2546 computer system; and
- 2547 (ii) any associated documentation and source material that explain how to operate the
- 2548 computer program.
- 2549 (b) "Computer program" does not mean:
- 2550 (i) the original data, including numbers, text, voice, graphics, and images;
- 2551 (ii) analysis, compilation, and other manipulated forms of the original data produced by
- 2552 use of the program; or
- 2553 (iii) the mathematical or statistical formulas, excluding the underlying mathematical
- 2554 algorithms contained in the program, that would be used if the manipulated forms of the
- 2555 original data were to be produced manually.
- 2556 (5) (a) "Contractor" means:
- 2557 (i) any person who contracts with a governmental entity to provide goods or services
- 2558 directly to a governmental entity; or
- 2559 (ii) any private, nonprofit organization that receives funds from a governmental entity.
- 2560 (b) "Contractor" does not mean a private provider.
- 2561 (6) "Controlled record" means a record containing data on individuals that is controlled
- 2562 as provided by Section 63G-2-304.
- 2563 (7) "Designation," "designate," and their derivative forms mean indicating, based on a
- 2564 governmental entity's familiarity with a record series or based on a governmental entity's
- 2565 review of a reasonable sample of a record series, the primary classification that a majority of
- 2566 records in a record series would be given if classified and the classification that other records
- 2567 typically present in the record series would be given if classified.
- 2568 (8) "Elected official" means each person elected to a state office, county office,
- 2569 municipal office, school board or school district office, local district office, or special service

2570 district office, but does not include judges.

2571 (9) "Explosive" means a chemical compound, device, or mixture:

2572 (a) commonly used or intended for the purpose of producing an explosion; and

2573 (b) that contains oxidizing or combustive units or other ingredients in proportions,

2574 quantities, or packing so that:

2575 (i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the
2576 compound or mixture may cause a sudden generation of highly heated gases; and

2577 (ii) the resultant gaseous pressures are capable of:

2578 (A) producing destructive effects on contiguous objects; or

2579 (B) causing death or serious bodily injury.

2580 (10) "Government audit agency" means any governmental entity that conducts an audit.

2581 (11) (a) "Governmental entity" means:

2582 (i) executive department agencies of the state, the offices of the governor, lieutenant
2583 governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole,
2584 the Board of Examiners, the National Guard, the Career Service Review ~~[Board]~~ Office, the
2585 State Board of Education, the State Board of Regents, and the State Archives;

2586 (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal
2587 Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative
2588 committees, except any political party, group, caucus, or rules or sifting committee of the
2589 Legislature;

2590 (iii) courts, the Judicial Council, the Office of the Court Administrator, and similar
2591 administrative units in the judicial branch;

2592 (iv) any state-funded institution of higher education or public education; or

2593 (v) any political subdivision of the state, but, if a political subdivision has adopted an
2594 ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this
2595 chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or
2596 as specified in any other section of this chapter that specifically refers to political subdivisions.

2597 (b) "Governmental entity" also means every office, agency, board, bureau, committee,
2598 department, advisory board, or commission of an entity listed in Subsection (11)(a) that is
2599 funded or established by the government to carry out the public's business.

2600 (c) "Governmental entity" does not include the Utah Educational Savings Plan created

2601 in Section 53B-8a-103.

2602 (12) "Gross compensation" means every form of remuneration payable for a given
2603 period to an individual for services provided including salaries, commissions, vacation pay,
2604 severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any
2605 similar benefit received from the individual's employer.

2606 (13) "Individual" means a human being.

2607 (14) (a) "Initial contact report" means an initial written or recorded report, however
2608 titled, prepared by peace officers engaged in public patrol or response duties describing official
2609 actions initially taken in response to either a public complaint about or the discovery of an
2610 apparent violation of law, which report may describe:

2611 (i) the date, time, location, and nature of the complaint, the incident, or offense;

2612 (ii) names of victims;

2613 (iii) the nature or general scope of the agency's initial actions taken in response to the
2614 incident;

2615 (iv) the general nature of any injuries or estimate of damages sustained in the incident;

2616 (v) the name, address, and other identifying information about any person arrested or
2617 charged in connection with the incident; or

2618 (vi) the identity of the public safety personnel, except undercover personnel, or
2619 prosecuting attorney involved in responding to the initial incident.

2620 (b) Initial contact reports do not include follow-up or investigative reports prepared
2621 after the initial contact report. However, if the information specified in Subsection (14)(a)
2622 appears in follow-up or investigative reports, it may only be treated confidentially if it is
2623 private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

2624 (15) "Legislative body" means the Legislature.

2625 (16) "Notice of compliance" means a statement confirming that a governmental entity
2626 has complied with a records committee order.

2627 (17) "Person" means:

2628 (a) an individual;

2629 (b) a nonprofit or profit corporation;

2630 (c) a partnership;

2631 (d) a sole proprietorship;

- 2632 (e) other type of business organization; or
- 2633 (f) any combination acting in concert with one another.
- 2634 (18) "Private provider" means any person who contracts with a governmental entity to
- 2635 provide services directly to the public.
- 2636 (19) "Private record" means a record containing data on individuals that is private as
- 2637 provided by Section 63G-2-302.
- 2638 (20) "Protected record" means a record that is classified protected as provided by
- 2639 Section 63G-2-305.
- 2640 (21) "Public record" means a record that is not private, controlled, or protected and that
- 2641 is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).
- 2642 (22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film,
- 2643 card, tape, recording, electronic data, or other documentary material regardless of physical form
- 2644 or characteristics:
- 2645 (i) that is prepared, owned, received, or retained by a governmental entity or political
- 2646 subdivision; and
- 2647 (ii) where all of the information in the original is reproducible by photocopy or other
- 2648 mechanical or electronic means.
- 2649 (b) "Record" does not mean:
- 2650 (i) a personal note or personal communication prepared or received by an employee or
- 2651 officer of a governmental entity in the employee's or officer's private capacity;
- 2652 (ii) a temporary draft or similar material prepared for the originator's personal use or
- 2653 prepared by the originator for the personal use of an individual for whom the originator is
- 2654 working;
- 2655 (iii) material that is legally owned by an individual in the individual's private capacity;
- 2656 (iv) material to which access is limited by the laws of copyright or patent unless the
- 2657 copyright or patent is owned by a governmental entity or political subdivision;
- 2658 (v) proprietary software;
- 2659 (vi) junk mail or a commercial publication received by a governmental entity or an
- 2660 official or employee of a governmental entity;
- 2661 (vii) a book that is cataloged, indexed, or inventoried and contained in the collections
- 2662 of a library open to the public;

2663 (viii) material that is cataloged, indexed, or inventoried and contained in the collections
2664 of a library open to the public, regardless of physical form or characteristics of the material;

2665 (ix) a daily calendar or other personal note prepared by the originator for the
2666 originator's personal use or for the personal use of an individual for whom the originator is
2667 working;

2668 (x) a computer program that is developed or purchased by or for any governmental
2669 entity for its own use;

2670 (xi) a note or internal memorandum prepared as part of the deliberative process by:

2671 (A) a member of the judiciary;

2672 (B) an administrative law judge;

2673 (C) a member of the Board of Pardons and Parole; or

2674 (D) a member of any other body charged by law with performing a quasi-judicial
2675 function;

2676 (xii) a telephone number or similar code used to access a mobile communication
2677 device that is used by an employee or officer of a governmental entity, provided that the
2678 employee or officer of the governmental entity has designated at least one business telephone
2679 number that is a public record as provided in Section 63G-2-301;

2680 (xiii) information provided by the Public Employees' Benefit and Insurance Program,
2681 created in Section 49-20-103, to a county to enable the county to calculate the amount to be
2682 paid to a health care provider under Subsection 17-50-319(2)(e)(ii); or

2683 (xiv) information that an owner of unimproved property provides to a local entity as
2684 provided in Section 11-42-205.

2685 (23) "Record series" means a group of records that may be treated as a unit for
2686 purposes of designation, description, management, or disposition.

2687 (24) "Records committee" means the State Records Committee created in Section
2688 63G-2-501.

2689 (25) "Records officer" means the individual appointed by the chief administrative
2690 officer of each governmental entity, or the political subdivision to work with state archives in
2691 the care, maintenance, scheduling, designation, classification, disposal, and preservation of
2692 records.

2693 (26) "Schedule," "scheduling," and their derivative forms mean the process of

2694 specifying the length of time each record series should be retained by a governmental entity for
2695 administrative, legal, fiscal, or historical purposes and when each record series should be
2696 transferred to the state archives or destroyed.

2697 (27) "Sponsored research" means research, training, and other sponsored activities as
2698 defined by the federal Executive Office of the President, Office of Management and Budget:

2699 (a) conducted:

2700 (i) by an institution within the state system of higher education defined in Section
2701 53B-1-102; and

2702 (ii) through an office responsible for sponsored projects or programs; and

2703 (b) funded or otherwise supported by an external:

2704 (i) person that is not created or controlled by the institution within the state system of
2705 higher education; or

2706 (ii) federal, state, or local governmental entity.

2707 (28) "State archives" means the Division of Archives and Records Service created in
2708 Section 63A-12-101.

2709 (29) "State archivist" means the director of the state archives.

2710 (30) "Summary data" means statistical records and compilations that contain data
2711 derived from private, controlled, or protected information but that do not disclose private,
2712 controlled, or protected information.

2713 Section 49. Section **63G-2-702** is amended to read:

2714 **63G-2-702. Applicability to the judiciary.**

2715 (1) The judiciary is subject to the provisions of this chapter except as provided in this
2716 section.

2717 (2) (a) The judiciary is not subject to Part 4, Appeals, except as provided in Subsection
2718 (5).

2719 (b) The judiciary is not subject to [~~Parts~~ Part 5, State Records Committee, and Part 6,
2720 Collection of Information and Accuracy of Records.

2721 (c) The judiciary is subject to only the following sections in Part 9, [~~Archives and~~
2722 ~~Records Service~~] Public Associations: Sections 63A-12-105 and 63A-12-106.

2723 (3) The Judicial Council, the Administrative Office of the Courts, the courts, and other
2724 administrative units in the judicial branch shall designate and classify their records in

2725 accordance with Sections 63G-2-301 through 63G-2-305.

2726 (4) Substantially consistent with the provisions of this chapter, the Judicial Council
2727 shall:

2728 (a) make rules governing requests for access, fees, classification, designation,
2729 segregation, management, retention, denials and appeals of requests for access and retention,
2730 and amendment of judicial records;

2731 (b) establish an appellate board to handle appeals from denials of requests for access
2732 and provide that a requester who is denied access by the appellate board may file a lawsuit in
2733 district court; and

2734 (c) provide standards for the management and retention of judicial records substantially
2735 consistent with Section 63A-12-103.

2736 (5) Rules governing appeals from denials of requests for access shall substantially
2737 comply with the time limits provided in Section 63G-2-204 and Part 4, Appeals.

2738 (6) Upon request, the state archivist shall:

2739 (a) assist with and advise concerning the establishment of a records management
2740 program in the judicial branch; and

2741 (b) as required by the judiciary, provide program services similar to those available to
2742 the executive and legislative branches of government as provided in this chapter and Title 63A,
2743 Chapter 12, [~~Part 1, Archives and Records Service~~] Public Records Management Act.

2744 Section 50. Section **63G-12-103** is amended to read:

2745 **63G-12-103. Immigration Act Restricted Account.**

2746 (1) There is created a restricted account within the General Fund known as the
2747 "Immigration Act Restricted Account."

2748 (2) (a) The restricted account shall consist of:

2749 (i) a fee collected under this chapter;

2750 (ii) a fine collected under Section 63G-12-207;

2751 (iii) civil penalties imposed under Section 63G-12-211 or [~~63G-12-307~~] 63G-12-306;

2752 (iv) money appropriated to the restricted account by the Legislature; and

2753 (v) interest earned on the restricted account.

2754 (b) The restricted account shall earn interest.

2755 (3) The Legislature may appropriate money from the restricted account to:

2756 (a) the department and the Office of the Governor to pay the costs associated with the
2757 implementation of Section 63G-12-202;

2758 (b) the department to administer this chapter;

2759 (c) the State Tax Commission for costs associated with implementing Section
2760 63G-12-203;

2761 (d) the attorney general for costs associated with:

2762 (i) litigation related to this chapter;

2763 (ii) a multi-agency strike force created under Section 67-5-22.7; or

2764 (iii) a memorandum of understanding executed under Section 67-5-28; and

2765 (e) the Identity Theft Restricted Account created in Section 67-5-22.7.

2766 Section 51. Section **63G-12-402** is amended to read:

2767 **63G-12-402. Receipt of state, local, or federal public benefits -- Verification --**

2768 **Exceptions -- Fraudulently obtaining benefits -- Criminal penalties -- Annual report.**

2769 (1) (a) Except as provided in Subsection (3) or when exempted by federal law, an
2770 agency or political subdivision of the state shall verify the lawful presence in the United States
2771 of an individual at least 18 years of age who applies for:

2772 (i) a state or local public benefit as defined in 8 U.S.C. Sec. 1621; or

2773 (ii) a federal public benefit as defined in 8 U.S.C. Sec. 1611, that is administered by an
2774 agency or political subdivision of this state.

2775 (b) For purpose of a license issued under Title 58, Chapter 55, Utah Construction
2776 Trades Licensing Act, to an applicant that is an unincorporated entity, the Department of
2777 Commerce shall verify in accordance with this Subsection (2) the lawful presence in the United
2778 States of each individual who:

2779 (i) owns an interest in the contractor that is an unincorporated entity; and

2780 (ii) engages, or will engage, in a construction trade in Utah as an owner of the
2781 contractor described in Subsection [~~2~~] (1)(b)(i).

2782 (2) This section shall be enforced without regard to race, religion, gender, ethnicity, or
2783 national origin.

2784 (3) Verification of lawful presence under this section is not required for:

2785 (a) any purpose for which lawful presence in the United States is not restricted by law,
2786 ordinance, or regulation;

- 2787 (b) assistance for health care items and services that:
- 2788 (i) are necessary for the treatment of an emergency medical condition, as defined in 42
- 2789 U.S.C. Sec. 1396b(v)(3), of the individual involved; and
- 2790 (ii) are not related to an organ transplant procedure;
- 2791 (c) short-term, noncash, in-kind emergency disaster relief;
- 2792 (d) public health assistance for immunizations with respect to immunizable diseases
- 2793 and for testing and treatment of symptoms of communicable diseases whether or not the
- 2794 symptoms are caused by the communicable disease;
- 2795 (e) programs, services, or assistance such as soup kitchens, crisis counseling and
- 2796 intervention, and short-term shelter, specified by the United States Attorney General, in the
- 2797 sole and unreviewable discretion of the United States Attorney General after consultation with
- 2798 appropriate federal agencies and departments, that:
- 2799 (i) deliver in-kind services at the community level, including through public or private
- 2800 nonprofit agencies;
- 2801 (ii) do not condition the provision of assistance, the amount of assistance provided, or
- 2802 the cost of assistance provided on the income or resources of the individual recipient; and
- 2803 (iii) are necessary for the protection of life or safety;
- 2804 (f) the exemption for paying the nonresident portion of total tuition as set forth in
- 2805 Section 53B-8-106;
- 2806 (g) an applicant for a license under Section 61-1-4, if the applicant:
- 2807 (i) is registered with the Financial Industry Regulatory Authority; and
- 2808 (ii) files an application with the state Division of Securities through the Central
- 2809 Registration Depository;
- 2810 (h) a state public benefit to be given to an individual under Title 49, Utah State
- 2811 Retirement and Insurance Benefit Act;
- 2812 (i) a home loan that will be insured, guaranteed, or purchased by:
- 2813 (i) the Federal Housing Administration, the Veterans Administration, or any other
- 2814 federal agency; or
- 2815 (ii) an enterprise as defined in 12 U.S.C. Sec. 4502;
- 2816 (j) a subordinate loan or a grant that will be made to an applicant in connection with a
- 2817 home loan that does not require verification under Subsection (3)(i); and

2818 (k) an applicant for a license issued by the Department of Commerce or individual
2819 described in Subsection [~~(2)~~] (1)(b), if the applicant or individual provides the Department of
2820 Commerce:

2821 (i) certification, under penalty of perjury, that the applicant or individual is:

2822 (A) a United States citizen;

2823 (B) a qualified alien as defined in 8 U.S.C. Sec. 1641; or

2824 (C) lawfully present in the United States; and

2825 (ii) the number for a driver license or identification card issued:

2826 (A) under Title 53, Chapter 3, Uniform Driver License Act; or

2827 (B) by a state other than Utah that as part of issuing the driver license or identification
2828 card verifies an individual's lawful presence in the United States.

2829 (4) (a) An agency or political subdivision required to verify the lawful presence in the
2830 United States of an applicant under this section shall require the applicant to certify under
2831 penalty of perjury that:

2832 (i) the applicant is a United States citizen; or

2833 (ii) the applicant is:

2834 (A) a qualified alien as defined in 8 U.S.C. Sec. 1641; and

2835 (B) lawfully present in the United States.

2836 (b) The certificate required under this Subsection (4) shall include a statement advising
2837 the signer that providing false information subjects the signer to penalties for perjury.

2838 (5) An agency or political subdivision shall verify a certification required under
2839 Subsection (4)[~~(b)~~](a)(ii) through the federal SAVE program.

2840 (6) (a) An individual who knowingly and willfully makes a false, fictitious, or
2841 fraudulent statement or representation in a certification under Subsection (3)(k) or (4) is subject
2842 to the criminal penalties applicable in this state for:

2843 (i) making a written false statement under Subsection 76-8-504(2); and

2844 (ii) fraudulently obtaining:

2845 (A) public assistance program benefits under Sections 76-8-1205 and 76-8-1206; or

2846 (B) unemployment compensation under Section 76-8-1301.

2847 (b) If the certification constitutes a false claim of United States citizenship under 18
2848 U.S.C. Sec. 911, the agency or political subdivision shall file a complaint with the United

2849 States Attorney General for the applicable district based upon the venue in which the
2850 application was made.

2851 (c) If an agency or political subdivision receives verification that a person making an
2852 application for a benefit, service, or license is not a qualified alien, the agency or political
2853 subdivision shall provide the information to the Office of the Attorney General unless
2854 prohibited by federal mandate.

2855 (7) An agency or political subdivision may adopt variations to the requirements of this
2856 section that:

2857 (a) clearly improve the efficiency of or reduce delay in the verification process; or

2858 (b) provide for adjudication of unique individual circumstances where the verification
2859 procedures in this section would impose an unusual hardship on a legal resident of Utah.

2860 (8) It is unlawful for an agency or a political subdivision of this state to provide a state,
2861 local, or federal benefit, as defined in 8 U.S.C. Sec. 1611 and 1621, in violation of this section.

2862 (9) A state agency or department that administers a program of state or local public
2863 benefits shall:

2864 (a) provide an annual report to the governor, the president of the Senate, and the
2865 speaker of the House regarding its compliance with this section; and

2866 (b) (i) monitor the federal SAVE program for application verification errors and
2867 significant delays;

2868 (ii) provide an annual report on the errors and delays to ensure that the application of
2869 the federal SAVE program is not erroneously denying a state or local benefit to a legal resident
2870 of the state; and

2871 (iii) report delays and errors in the federal SAVE program to the United States
2872 Department of Homeland Security.

2873 Section 52. Section **63I-1-253** is amended to read:

2874 **63I-1-253. Repeal dates, Titles 53, 53A, and 53B.**

2875 The following provisions are repealed on the following dates:

2876 (1) Section 53-3-232, Conditional licenses, is repealed July 1, 2015.

2877 (2) Title 53A, Chapter 1a, Part 6, Public Education Job Enhancement Program is
2878 repealed July 1, 2020.

2879 [~~3~~] Title 53A, Chapter 1a, Part 9, Voluntary Extended-day Kindergarten Program, is

2880 ~~repealed July 1, 2011.]~~

2881 [~~(4)~~] (3) The State Instructional Materials Commission, created in Section 53A-14-101,
2882 is repealed July 1, 2016.

2883 [~~(5)~~] (4) Subsections 53A-16-113(3) and (4) are repealed December 31, 2016.

2884 [~~(6)~~] (5) Section 53A-16-114 is repealed December 31, 2016.

2885 [~~(7)~~] (6) Section 53A-17a-163, Performance-based Compensation Pilot Program is
2886 repealed July 1, 2016.

2887 [~~(8)~~] (7) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money
2888 from the Land Exchange Distribution Account to the Geological Survey for test wells, other
2889 hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

2890 Section 53. Section **63I-1-263** is amended to read:

2891 **63I-1-263. Repeal dates, Titles 63A to 63M.**

2892 (1) Section 63A-4-204, authorizing the Risk Management Fund to provide coverage to
2893 any public school district which chooses to participate, is repealed July 1, 2016.

2894 (2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2016.

2895 (3) Section 63C-8-106, rural residency training program, is repealed July 1, 2015.

2896 (4) Title 63C, Chapter 13, Prison Relocation and Development Authority Act, is
2897 repealed July 1, 2014.

2898 (5) Subsection 63G-6-502(5)(b)(ii) authorizing certain transportation agencies to award
2899 a contract for a design-build transportation project in certain circumstances, is repealed July 1,
2900 2015.

2901 (6) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1,
2902 2020.

2903 (7) The Resource Development Coordinating Committee, created in Section
2904 63J-4-501, is repealed July 1, 2015.

2905 (8) Title 63M, Chapter 1, Part 4, Enterprise Zone Act, is repealed July 1, 2018.

2906 (9) (a) Title 63M, Chapter 1, Part 11, Recycling Market Development Zone Act, is
2907 repealed January 1, 2021.

2908 (b) Subject to Subsection (9)(c), Sections 59-7-610 and 59-10-1007, regarding tax
2909 credits for certain persons in recycling market development zones, are repealed for taxable
2910 years beginning on or after January 1, 2012.

- 2911 (c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:
- 2912 (i) for the purchase price of machinery or equipment described in Section 59-7-610 or
- 2913 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2012; or
- 2914 (ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if
- 2915 the expenditure is made on or after January 1, 2012.
- 2916 (d) Notwithstanding Subsections (9)(b) and (c), a person may carry forward a tax credit
- 2917 in accordance with Section 59-7-610 or 59-10-1007 if:
- 2918 (i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and
- 2919 (ii) (A) for the purchase price of machinery or equipment described in Section
- 2920 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31,
- 2921 2011; or
- 2922 (B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the
- 2923 expenditure is made on or before December 31, 2011.
- 2924 (10) The Crime Victim Reparations and Assistance Board, created in Section
- 2925 63M-7-504, is repealed July 1, 2017.
- 2926 [~~(11) Title 63M, Chapter 8, Utah Commission for Women and Families Act, is~~
- 2927 ~~repealed July 1, 2011.~~]
- 2928 [~~(12)~~ (11) Title 63M, Chapter 9, Families, Agencies, and Communities Together for
- 2929 Children and Youth At Risk Act, is repealed July 1, 2016.
- 2930 [~~(13)~~ (12) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1,
- 2931 2012.
- 2932 Section 54. Section **63I-1-278** is amended to read:
- 2933 **63I-1-278. Repeal dates, Title 78A and Title 78B.**
- 2934 (1) The Office of the Court Administrator, created in Section 78A-2-105, is repealed
- 2935 July 1, 2018.
- 2936 [~~(2) The case management program coordinator in Subsection 78A-2-108(4) is~~
- 2937 ~~repealed July 1, 2009.~~]
- 2938 [~~(3)~~ (2) Section 78B-3-421, regarding medical malpractice arbitration agreements, is
- 2939 repealed July 1, 2019.
- 2940 [~~(4) Alternative Dispute Resolution Act, created in~~
- 2941 (3) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution is repealed July 1,

2942 2016.

2943 [~~(5)~~] (4) The following are repealed December 31, 2012:

2944 (a) Subsection 78B-6-802(1)(i);

2945 (b) the language in Subsection 78B-6-802(1)(a) that states "except as provided in

2946 Subsection (1)(i)"; and

2947 (c) the language in Subsection 78B-6-802(1)(b) that states "and except as provided in

2948 Subsection (1)(i)".

2949 [~~(6)~~] (5) Section 78B-6-901.5, regarding notice to tenants on residential rental property

2950 to be foreclosed, is repealed December 31, 2012.

2951 Section 55. Section **63I-2-204** is amended to read:

2952 **63I-2-204. Repeal dates -- Title 4.**

2953 [~~Subsection 4-23-7.5(4) is repealed July 1, 2010.~~]

2954 Section 56. Section **63I-2-223** is amended to read:

2955 **63I-2-223. Repeal dates -- Title 23.**

2956 [~~Section 23-14-14.1 is repealed July 1, 2009.~~]

2957 Section 57. Section **63I-2-258** is amended to read:

2958 **63I-2-258. Repeal dates -- Title 58.**

2959 [~~Section 58-77-204 is repealed July 1, 2011.~~]

2960 Section 58. Section **63I-2-263** is amended to read:

2961 **63I-2-263. Repeal dates, Title 63A to Title 63M.**

2962 [~~(1) Subsection 63G-1-401(5) is repealed on May 10, 2011.~~]

2963 [~~(2) Sections 63J-4a-206 and 63J-4a-207 are repealed on December 31, 2011.~~]

2964 [~~(3) Title 63M, Chapter 12, Advisory Council on Optimizing and Streamlining State~~

2965 ~~Government Act, is repealed January 1, 2012.~~]

2966 Section 59. Section **63J-8-102** is amended to read:

2967 **63J-8-102. Definitions.**

2968 As used in this chapter:

2969 (1) "ACEC" means an area of critical environmental concern.

2970 (2) "AUM" means animal unit months, a unit of grazing forage.

2971 (3) "BLM" means the United States Bureau of Land Management.

2972 (4) "FLPMA" means the Federal Land Policy and Management Act of 1976, 43 U.S.C.

2973 Sec. 1701 et seq.

2974 (5) "Forest service" means the United States Forest Service within the United States
2975 Department of Agriculture.

2976 (6) "Multiple use" means proper stewardship of the subject lands pursuant to Section
2977 [~~1031(c)~~] 103(c) of FLPMA, 43 U.S.C. Sec. [~~170(c)~~] 1702(c).

2978 (7) "OHV" means off-highway vehicle as defined in Section 41-22-2.

2979 (8) "Settlement Agreement" means the written agreement between the state and the
2980 Department of the Interior in 2003 (revised in 2005) that resolved the case of State of Utah v.
2981 Gale Norton, Secretary of Interior (United States District Court, D. Utah, Case No.
2982 2:96cv0870).

2983 (9) "SITLA" means the School and Institutional Trust Lands Administration as created
2984 in Section 53C-1-201.

2985 (10) (a) "Subject lands" means the following non-WSA BLM lands:

2986 (i) in Beaver County:

2987 (A) Mountain Home Range South, Jackson Wash, The Toad, North Wah Wah
2988 Mountains, Central Wah Wah Mountains, and San Francisco Mountains according to the
2989 region map entitled "Great Basin Central" linked in the webpage entitled "Citizen's Proposal
2990 for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
2991 existed on February 17, 2011; and

2992 (B) White Rock Range, South Wah Wah Mountains, and Granite Peak according to the
2993 region map entitled "Great Basin South" linked in the webpage entitled "Citizen's Proposal for
2994 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
2995 existed on February 17, 2011;

2996 (ii) in Box Elder County: Little Goose Creek, Grouse Creek Mountains North, Grouse
2997 Creek Mountains South, Bald Eagle Mountain, Central Pilot Range, Pilot Peak, Crater Island
2998 West, Crater Island East, Newfoundland Mountains, and Grassy Mountains North according to
2999 the region map entitled "Great Basin North" linked in the webpage entitled "Citizen's Proposal
3000 for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
3001 existed on February 17, 2011;

3002 (iii) in Carbon County: Desbrough Canyon and Turtle Canyon according to the region
3003 map entitled "Book Cliffs" linked in the webpage entitled "Citizen's Proposal for Wilderness in

3004 Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on
3005 February 17, 2011;

3006 (iv) in Daggett County: Goslin Mountain, Home Mountain, Red Creek Badlands,
3007 O-wi-yu-kuts, Lower Flaming Gorge, Crouse Canyon, and Diamond Breaks according to the
3008 region map entitled "Dinosaur" linked in the webpage entitled "Citizen's Proposal for
3009 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
3010 existed on February 17, 2011;

3011 (v) in Duchesne County: Desbrough Canyon according to the region map entitled
3012 "Book Cliffs" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at
3013 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
3014 2011;

3015 (vi) in Emery County:

3016 (A) San Rafael River and Sweetwater Reef, according to the region map entitled
3017 "Canyonlands Basin" linked in the webpage entitled "Citizen's Proposal for Wilderness in
3018 Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on
3019 February 17, 2011;

3020 (B) Flat Tops according to the region map entitled "Glen Canyon," which is available
3021 by clicking the link entitled "Dirty Devil" at the webpage entitled "Citizen's Proposal for
3022 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
3023 existed on February 17, 2011; and

3024 (C) Price River, Lost Spring Wash, Eagle Canyon, Upper Muddy Creek, Molen Reef,
3025 Rock Canyon, Mussentuchit Badland, and Muddy Creek, according to the region map entitled
3026 "San Rafael Swell" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah"
3027 at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
3028 2011;

3029 (vii) in Garfield County:

3030 (A) Pole Canyon, according to the region map entitled "Great Basin South" linked in
3031 the webpage entitled "Citizen's Proposal for Wilderness in Utah" at
3032 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
3033 2011;

3034 (B) Dirty Devil, Fiddler Butte, Little Rockies, Cane Spring Desert, and Cane Spring

3035 Desert Adjacents, according to the region map entitled "Glen Canyon," which is available by
3036 clicking the link entitled "Dirty Devil" at the webpage entitled "Citizen's Proposal for
3037 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
3038 existed on February 17, 2011;

3039 (C) Lampstand, Wide Hollow, Steep Creek, Brinkerhof Flats, Little Valley Canyon,
3040 Death Hollow, Studhorse Peaks, Box Canyon, Heaps Canyon, North Escalante Canyon, Colt
3041 Mesa, East of Bryce, Slopes of Canaan Peak, Horse Spring Canyon, Muley Twist Flank,
3042 Pioneer Mesa, Slopes of Bryce, Blue Hills, Mud Springs Canyon, Carcass Canyon, Willis
3043 Creek North, Kodachrome Basin, and Kodachrome Headlands, according to the region map
3044 entitled "Grand Staircase Escalante" linked at the webpage entitled "Citizen's Proposal for
3045 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
3046 existed on February 17, 2011; and

3047 (D) Notom Bench, Mount Ellen, Bull Mountain, Dogwater Creek, Ragged Mountain,
3048 Mount Pennell, Mount Hillers, Bullfrog Creek, and Long Canyon, according to the region map
3049 entitled "Henry Mountains" linked at the webpage entitled "Citizen's Proposal for Wilderness
3050 in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on
3051 February 17, 2011;

3052 (viii) in Iron County: Needle Mountains, Steamboat Mountain, Broken Ridge, Paradise
3053 Mountains, Crook Canyon, Hamlin, North Peaks, Mount Escalante, and Antelope Ridge,
3054 according to the region map entitled "Great Basin South" linked in the webpage entitled
3055 "Citizen's Proposal for Wilderness in Utah" at
3056 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
3057 2011;

3058 (ix) in Juab County: Deep Creek Mountains, Essex Canyon, Kern Mountains, Wild
3059 Horse Pass, Disappointment Hills, Granite Mountain, Middle Mountains, Tule Valley, Fish
3060 Springs Ridge, Thomas Range, Drum Mountains, Dugway Mountains, Keg Mountains West,
3061 Keg Mountains East, Lion Peak, and Rockwell Little Sahara, according to the region map
3062 entitled "Great Basin Central" linked in the webpage entitled "Citizen's Proposal for
3063 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
3064 existed on February 17, 2011;

3065 (x) in Kane County:

3066 (A) Willis Creek North, Willis Creek, Kodachrome Badlands, Mud Springs Canyon,
3067 Carcass Canyon, Scorpion, Bryce Boot, Paria-Hackberry Canyons, Fiftymile Canyon,
3068 Hurricane Wash, Upper Kanab Creek, Timber Mountain, Nephi Point, Paradise Canyon,
3069 Wahweap Burning Hills, Fiftymile Bench, Forty Mile Gulch, Sooner Bench 1, 2, & 3, Rock
3070 Cove, Warm Bench, Andalex Not, Vermillion Cliffs, Ladder Canyon, The Cockscomb, Nipple
3071 Bench, Moquith Mountain, Bunting Point, Glass Eye Canyon, and Pine Hollow, according to
3072 the region map entitled "Grand Staircase Escalante" linked at the webpage entitled "Citizen's
3073 Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the
3074 webpage existed on February 17, 2011; and

3075 (B) Orderville Canyon, Jolley Gulch, and Parunuweap Canyon, according to the region
3076 map entitled "Zion/Mohave" linked at the webpage entitled "Citizen's Proposal for Wilderness
3077 in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on
3078 February 17, 2011;

3079 (xi) in Millard County: Kern Mountains, Wild Horse Pass, Disappointment Hills,
3080 Granite Mountain, Middle Mountains, Tule Valley, Swasey Mountain, Little Drum Mountains
3081 North, Little Drum Mountains South, Drum Mountains, Snake Valley, Coyote Knoll, Howell
3082 Peak, Tule Valley South, Ledger Canyon, Chalk Knolls, Orr Ridge, Notch View, Bullgrass
3083 Knoll, Notch Peak, Barn Hills, Cricket Mountains, Burbank Pass, Middle Burbank Hills, King
3084 Top, Barn Hills, Red Tops, Middle Burbank Hills, Juniper, Painted Rock Mountain, Black
3085 Hills, Tunnel Springs, Red Canyon, Sand Ridge, Little Sage Valley, Cat Canyon, Headlight
3086 Mountain, Black Hills, Mountain Range Home North, Tweedy Wash, North Wah Wah
3087 Mountains, Jackson Wash, and San Francisco Mountains, according to the region map entitled
3088 "Great Basin Central" linked in the webpage entitled "Citizen's Proposal for Wilderness in
3089 Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on
3090 February 17, 2011;

3091 (xii) in Piute County: Kingston Ridge, Rocky Ford, and Phonolite Hill, according to
3092 the region map entitled "Great Basin South" linked in the webpage entitled "Citizen's Proposal
3093 for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
3094 existed on February 17, 2011;

3095 (xiii) in San Juan County:

3096 (A) Horseshoe Point, Deadhorse Cliffs, Gooseneck, Demon's Playground, Hatch

3097 Canyon, Lockhart Basin, Indian Creek, Hart's Point, Butler Wash, Bridger Jack Mesa, and Shay
3098 Mountain, according to the region map entitled "Canyonlands Basin" linked in the webpage
3099 entitled "Citizen's Proposal for Wilderness in Utah" at
3100 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
3101 2011;

3102 (B) Dark Canyon, Copper Point, Fortknocker Canyon, White Canyon, The Needle, Red
3103 Rock Plateau, Upper Red Canyon, and Tuwa Canyon, according to the region map entitled
3104 "Glen Canyon," which is available by clicking the link entitled "Dirty Devil" at the webpage
3105 entitled "Citizen's Proposal for Wilderness in Utah" at
3106 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
3107 2011;

3108 (C) Hunters Canyon, Behind the Rocks, Mill Creek, and Coyote Wash, according to
3109 the region map entitled "Moab/La Sal" linked at the webpage entitled "Citizen's Proposal for
3110 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
3111 existed on February 17, 2011; and

3112 (D) Hammond Canyon, Allen Canyon, Mancos Jim Butte, Arch Canyon, Monument
3113 Canyon, Tin Cup Mesa, Cross Canyon, Nokai Dome, Grand Gulch, Fish and Owl Creek
3114 Canyons, Comb Ridge, Road Canyon, The Tabernacle, Lime Creek, San Juan River, and
3115 Valley of the Gods, according to the region map entitled "San Juan" linked at the webpage
3116 entitled "Citizen's Proposal for Wilderness in Utah" at
3117 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
3118 2011;

3119 (xiv) in Sevier County: Rock Canyon, Mussentuchit Badland, Limestone Cliffs, and
3120 Jones' Bench, according to the region map entitled "San Rafael Swell" linked at the webpage
3121 entitled "Citizen's Proposal for Wilderness in Utah" at
3122 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
3123 2011;

3124 (xv) in Tooele County:

3125 (A) Silver Island Mountains, Crater Island East, Grassy Mountains North, Grassy
3126 Mountains South, Stansbury Island, Cedar Mountains North, Cedar Mountains Central, Cedar
3127 Mountains South, North Stansbury Mountains, Oquirrh Mountains, and Big Hollow, according

3128 to the region map entitled "Great Basin North" linked in the webpage entitled "Citizen's
3129 Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the
3130 webpage existed on February 17, 2011, excluding the areas that Congress designated as
3131 wilderness under the National Defense Authorization Act for Fiscal Year 2006; and

3132 (B) Ochre Mountain, Deep Creek Mountains, Dugway Mountains, Indian Peaks, and
3133 Lion Peak, according to the region map entitled "Great Basin Central" linked in the webpage
3134 entitled "Citizen's Proposal for Wilderness in Utah" at
3135 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
3136 2011;

3137 (xvi) in Uintah County:

3138 (A) White River, Lower Bitter Creek, Sunday School Canyon, Dragon Canyon, Wolf
3139 Point, Winter Ridge, Seep Canyon, Bitter Creek, Hideout Canyon, Sweetwater Canyon, and
3140 Hell's Hole, according to the region map entitled "Book Cliffs" linked in the webpage entitled
3141 "Citizen's Proposal for Wilderness in Utah" at
3142 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
3143 2011; and

3144 (B) Lower Flaming Gorge, Crouse Canyon Stone Bridge Draw, Diamond Mountain,
3145 Wild Mountain, Split Mountain Benches, Vivas Cake Hill, Split Mountain Benches South,
3146 Beach Draw, Stuntz Draw, Moonshine Draw, Bourdette Draw, and Bull Canyon, according to
3147 the region map entitled "Dinosaur" linked in the webpage entitled "Citizen's Proposal for
3148 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
3149 existed on February 17, 2011;

3150 (xvii) in Washington County: Cougar Canyon, Docs Pass, Slaughter Creek, Butcher
3151 Knife Canyon, Square Top, Scarecrow Creek, Beaver Dam Wash, Beaver Dam Mountains
3152 North, Beaver Dam Mountains South, Joshua Tree, Beaver Dam Wilderness Expansion, Red
3153 Mountain, Cottonwood Canyon, Taylor Canyon, LaVerkin Creek, Beartrap Canyon, Deep
3154 Creek, Black Ridge, Red Butte, Kolob Creek, Goose Creek, Dry Creek, Zion National Park
3155 Adjacents, Crater Hill, The Watchman, and Canaan Mountain, according to the region map
3156 entitled "Zion/Mohave" linked at the webpage entitled "Citizen's Proposal for Wilderness in
3157 Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on
3158 February 17, 2011, excluding the areas that Congress designated as wilderness and

3159 conservation areas under the Omnibus Public Lands Management Act of 2009; and

3160 (xviii) in Wayne County:

3161 (A) Sweetwater Reef, Upper Horseshoe Canyon, and Labyrinth Canyon, according to
3162 the region map entitled "Canyonlands Basin" linked in the webpage entitled "Citizen's Proposal
3163 for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
3164 existed on February 17, 2011;

3165 (B) Flat Tops and Dirty Devil, according to the region map entitled "Glen Canyon,"
3166 which is available by clicking the link entitled "Dirty Devil" at the webpage entitled "Citizen's
3167 Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the
3168 webpage existed on February 17, 2011;

3169 (C) Fremont Gorge, Pleasant Creek Bench, Notom Bench, Mount Ellen, and Bull
3170 Mountain, according to the region map entitled "Henry Mountains" linked at the webpage
3171 entitled "Citizen's Proposal for Wilderness in Utah" at
3172 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
3173 2011; and

3174 (D) Capital Reef Adjacents, Muddy Creek, Wild Horse Mesa, North Blue Flats, Red
3175 Desert, and Factory Butte, according to the region map entitled "San Rafael Swell" linked at
3176 the webpage entitled "Citizen's Proposal for Wilderness in Utah" at
3177 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
3178 2011.

3179 (b) "Subject lands" also includes all BLM and Forest Service lands in the state that are
3180 not Wilderness Area or Wilderness Study Areas;

3181 (c) "Subject lands" does not include the following lands that are the subject of
3182 consideration for a possible federal lands bill and should be managed according to the 2008
3183 Price BLM Field Office Resource Management Plan until a federal lands bill provides
3184 otherwise:

3185 (i) Turtle Canyon and Desolation Canyon according to the region map entitled "Book
3186 Cliffs" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at
3187 <http://protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

3188 (ii) Labyrinth Canyon, Duma Point, and Horseshoe Point, according to the region map
3189 entitled "Canyonlands Basin" linked in the webpage entitled "Citizen's Proposal for Wilderness

3190 in Utah" at <http://protectwildutah.org/proposal/index.html> as the webpage existed on February
3191 17, 2011; and

3192 (iii) Devil's Canyon, Sid's Mountain, Mexican Mountain, San Rafael Reef, Hondu
3193 Country, Cedar Mountain, and Wild Horse, according to the region map entitled "San Rafael
3194 Swell" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at
3195 <http://protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

3196 (11) "Wilderness area" means those BLM and Forest Service lands added to the
3197 National Wilderness Preservation System by an act of Congress.

3198 (12) "WSA" and "Wilderness Study Area" mean the BLM lands in Utah that were
3199 identified as having the necessary wilderness character and were classified as wilderness study
3200 areas during the BLM wilderness review conducted between 1976 and 1993 by authority of
3201 Section 603 of FLPMA and labeled as Wilderness Study Areas within the final report of the
3202 President of the United States to the United States Congress in 1993.

3203 Section 60. Section **63J-8-104** is amended to read:

3204 **63J-8-104. State land use planning and management program.**

3205 The BLM and Forest Service land use plans should produce planning documents
3206 consistent with state and local land use plans to the maximum extent consistent with federal
3207 law and FLPMA's purposes, by incorporating the state's land use planning and management
3208 program for the subject lands that is as follows:

3209 (1) preserve traditional multiple use and sustained yield management on the subject
3210 lands to:

3211 (a) achieve and maintain in perpetuity a high-level annual or regular periodic output of
3212 agricultural, mineral, and various other resources from the subject lands;

3213 (b) support valid existing transportation, mineral, and grazing privileges in the subject
3214 lands at the highest reasonably sustainable levels;

3215 (c) produce and maintain the desired vegetation for watersheds, timber, food, fiber,
3216 livestock forage, wildlife forage, and minerals that are necessary to meet present needs and
3217 future economic growth and community expansion in each county where the subject lands are
3218 situated without permanent impairment of the productivity of the land;

3219 (d) meet the recreational needs and the personal and business-related transportation
3220 needs of the citizens of each county where the subject lands are situated by providing access

3221 throughout each such county;

3222 (e) meet the needs of wildlife, provided that the respective forage needs of wildlife and
3223 livestock are balanced according to the provisions of Subsection 63J-4-401(6)(m);

3224 (f) protect against adverse effects to historic properties, as defined by 36 C.F.R. Sec.
3225 800;

3226 (g) meet the needs of community economic growth and development;

3227 (h) provide for the protection of existing water rights and the reasonable development
3228 of additional water rights; and

3229 (i) provide for reasonable and responsible development of electrical transmission and
3230 energy pipeline infrastructure on the subject lands;

3231 (2) (a) do not designate, establish, manage, or treat any of the subject lands as an area
3232 with management prescriptions that parallel, duplicate, or resemble the management
3233 prescriptions established for wilderness areas or wilderness study areas, including the
3234 nonimpairment standard applicable to WSAs or anything that parallels, duplicates, or
3235 resembles that nonimpairment standard; and

3236 (b) recognize, follow, and apply the agreement between the state and the Department of
3237 the Interior in the settlement agreement;

3238 (3) call upon the BLM to revoke and revise BLM Manuals H 6301, H 6302, and H
3239 6303, issued on or about February 25, 2011, in light of the settlement agreement and the
3240 following principles of this state plan:

3241 (a) BLM lacks congressional authority to manage subject lands, other than WSAs, as if
3242 they are or may become wilderness;

3243 (b) BLM lacks authority to designate geographic areas as lands with wilderness
3244 characteristics or designate management prescriptions for such areas other than to use specific
3245 geographic-based tools and prescriptions expressly identified in FLPMA;

3246 (c) BLM lacks authority to manage the subject lands in any manner other than to
3247 prevent unnecessary or undue degradation, unless the BLM uses geographic tools expressly
3248 identified in FLPMA and does so pursuant to a duly adopted provision of a resource
3249 management plan adopted under FLPMA, 43 U.S.C. Sec. 1712;

3250 (d) BLM inventories for the presence of wilderness characteristics must be closely
3251 coordinated with inventories for those characteristics conducted by state and local

3252 governments, and should reflect a consensus among those governmental agencies about the
3253 existence of wilderness characteristics, as follows:

3254 (i) any inventory of wilderness characteristics should reflect all of the criteria identified
3255 in the Wilderness Act of 1964, including:

3256 (A) a size of 5,000 acres or more, containing no visible roads; and

3257 (B) the presence of naturalness, the opportunity for primitive and unconfined
3258 recreation, and the opportunity for solitude;

3259 (ii) geographic areas found to contain the presence of naturalness must appear pristine
3260 to the average viewer, and not contain any of the implements, artifacts, or effects of human
3261 presence, including:

3262 (A) visible roads, whether maintained or not; and

3263 (B) human-made features such as vehicle bridges, fire breaks, fisheries, enhancement
3264 facilities, fire rings, historic mining and other properties, including tailings piles, commercial
3265 radio and communication repeater sites, fencing, spring developments, linear disturbances,
3266 stock ponds, visible drill pads, pipeline and transmission line rights-of-way, and other similar
3267 features;

3268 (iii) factors, such as the following, though not necessarily conclusive, should weigh
3269 against a determination that a land area has the presence of naturalness:

3270 (A) the area is or once was the subject of mining and drilling activities;

3271 (B) mineral and hard rock mining leases exist in the area; and

3272 (C) the area is in a grazing district with active grazing allotments and visible range
3273 improvements;

3274 (iv) geographic areas found to contain the presence of solitude should convey the sense
3275 of solitude within the entire geographic area identified, otherwise boundary adjustments should
3276 be performed in accordance with Subsection (3)(d)(vii);

3277 (v) geographic areas found to contain the presence of an opportunity for primitive and
3278 unconfined recreation must find these features within the entire area and provide analysis about
3279 the effect of the number of visitors to the geographic area upon the presence of primitive or
3280 unconfined recreation, otherwise boundary adjustments should be performed in accordance
3281 with Subsection (3)(d)(vii);

3282 (vi) in addition to the actions required by the review for roads pursuant to the

3283 definitions of roads contained in BLM Manual H 6301, or any similar authority, the BLM
3284 should, pursuant to its authority to inventory, identify and list all roads or routes identified as
3285 part of a local or state governmental transportation system, and consider those routes or roads
3286 as qualifying as roads within the definition of the Wilderness Act of 1964; and

3287 (vii) BLM should adjust the boundaries for a geographic area to exclude areas that do
3288 not meet the criteria of lacking roads, lacking solitude, and lacking primitive and unconfined
3289 recreation and the boundaries should be redrawn to reflect an area that clearly meets the criteria
3290 above, and which does not employ minor adjustments to simply exclude small areas with
3291 human intrusions, specifically:

3292 (A) the boundaries of a proposed geographic area containing lands with wilderness
3293 characteristics should not be drawn around roads, rights-of-way, and intrusions; and

3294 (B) lands located between individual human impacts that do not meet the requirements
3295 for lands with wilderness characteristics should be excluded;

3296 (e) BLM should consider the responses of the [~~United States~~] Department of the
3297 Interior under cover of the letter dated May 20, 2009, clearly stating that BLM does not have
3298 the authority to apply the nonimpairment management standard to the subject lands, or to
3299 manage the subject lands in any manner to preserve their suitability for designation as
3300 wilderness, when considering the proper management principles for areas that meet the full
3301 definition of lands with wilderness characteristics; and

3302 (f) even if the BLM were to properly inventory an area for the presence of wilderness
3303 characteristics, the BLM still lacks authority to make or alter project level decisions to
3304 automatically avoid impairment of any wilderness characteristics without express
3305 congressional authority to do so;

3306 (4) achieve and maintain at the highest reasonably sustainable levels a continuing yield
3307 of energy, hard rock, and nuclear resources in those subject lands with economically
3308 recoverable amounts of such resources as follows:

3309 (a) the development of the solid, fluid, and gaseous mineral resources in portions of the
3310 subject lands is an important part of the state's economy and the economies of the respective
3311 counties, and should be recognized that it is technically feasible to access mineral and energy
3312 resources in portions of the subject lands while preserving or, as necessary, restoring
3313 nonmineral and nonenergy resources;

3314 (b) all available, recoverable solid, fluid, gaseous, and nuclear mineral resources in the
3315 subject lands should be seriously considered for contribution or potential contribution to the
3316 state's economy and the economies of the respective counties;

3317 (c) those portions of the subject lands shown to have reasonable mineral, energy, and
3318 nuclear potential should be open to leasing, drilling, and other access with reasonable
3319 stipulations and conditions, including mitigation, reclamation, and bonding measures where
3320 necessary, that will protect the lands against unnecessary and undue damage to other significant
3321 resource values;

3322 (d) federal oil and gas existing lease conditions and restrictions should not be modified,
3323 waived, or removed unless the lease conditions or restrictions are no longer necessary or
3324 effective;

3325 (e) any prior existing lease restrictions in the subject lands that are no longer necessary
3326 or effective should be modified, waived, or removed;

3327 (f) restrictions against surface occupancy should be eliminated, modified, or waived,
3328 where reasonable;

3329 (g) in the case of surface occupancy restrictions that cannot be reasonably eliminated,
3330 modified, or waived, directional drilling should be considered where the mineral and energy
3331 resources beneath the area can be reached employing available directional drilling technology;

3332 (h) applications for permission to drill in the subject lands that meet standard
3333 qualifications, including reasonable and effective mitigation and reclamation requirements,
3334 should be expeditiously processed and granted; and

3335 (i) any moratorium that may exist against the issuance of qualified mining patents and
3336 oil and gas leases in the subject lands, and any barriers that may exist against developing
3337 unpatented mining claims and filing for new claims, should be carefully evaluated for removal;

3338 (5) achieve and maintain livestock grazing in the subject lands at the highest
3339 reasonably sustainable levels by adhering to the policies, goals, and management practices set
3340 forth in Subsection 63J-4-401(6)(m);

3341 (6) manage the watershed in the subject lands to achieve and maintain water resources
3342 at the highest reasonably sustainable levels as follows:

3343 (a) adhere to the policies, goals, and management practices set forth in Subsection
3344 63J-4-401(6)(m);

3345 (b) deter unauthorized cross-country OHV use in the subject lands by establishing a
3346 reasonable system of roads and trails in the subject lands for the use of an OHV, as closing the
3347 subject lands to all OHV use will only spur increased and unauthorized use; and

3348 (c) keep open any road or trail in the subject lands that historically has been open to
3349 OHV use, as identified on respective county road maps;

3350 (7) achieve and maintain traditional access to outdoor recreational opportunities
3351 available in the subject lands as follows:

3352 (a) hunting, trapping, fishing, hiking, family and group parties, family and group
3353 campouts and campfires, rock hounding, OHV travel, geological exploring, pioneering,
3354 recreational vehicle parking, or just touring in personal vehicles are activities that are important
3355 to the traditions, customs, and character of the state and individual counties where the subject
3356 lands are located and should continue;

3357 (b) wildlife hunting, trapping, and fishing should continue at levels determined by the
3358 Wildlife Board and the Division of Wildlife Resources and traditional levels of group camping,
3359 group day use, and other traditional forms of outdoor recreation, both motorized and
3360 nonmotorized, should continue; and

3361 (c) the broad spectrum of outdoor recreational activities available on the subject lands
3362 should be available to citizens for whom a primitive, nonmotorized, outdoor experience is not
3363 preferred, affordable, or physically achievable;

3364 (8) (a) keep open to motorized travel, any road in the subject lands that is part of the
3365 respective counties' duly adopted transportation plan;

3366 (b) provide that R.S. 2477 rights-of-way should be recognized by the BLM;

3367 (c) provide that a county road may be temporarily closed or permanently abandoned
3368 only by statutorily authorized action of the county or state;

3369 (d) provide that the BLM and the Forest Service must recognize and not unduly
3370 interfere with a county's ability to maintain and repair roads and, where reasonably necessary,
3371 make improvements to the roads; and

3372 (e) recognize that additional roads and trails may be needed in the subject lands from
3373 time to time to facilitate reasonable access to a broad range of resources and opportunities
3374 throughout the subject lands, including livestock operations and improvements, solid, fluid,
3375 and gaseous mineral operations, recreational opportunities and operations, search and rescue

3376 needs, other public safety needs, access to public lands for people with disabilities and the
3377 elderly, and access to Utah school and institutional trust lands for the accomplishment of the
3378 purposes of those lands;

3379 (9) manage the subject lands so as to protect prehistoric rock art, three dimensional
3380 structures, and other artifacts and sites recognized as culturally important and significant by the
3381 state historic preservation officer or each respective county by imposing reasonable and
3382 effective stipulations and conditions reached by agreement between the federal agency and the
3383 state authorized officer pursuant to the authority granted by the National Historic Preservation
3384 Act, 16 U.S.C. Sec. 470 et seq.;

3385 (10) manage the subject lands so as to not interfere with the property rights of private
3386 landowners as follows:

3387 (a) the state recognizes that there are parcels of private fee land throughout the subject
3388 lands;

3389 (b) land management policies and standards in the subject lands should not interfere
3390 with the property rights of any private landowner to enjoy and engage in uses and activities on
3391 an individual's private property consistent with controlling county zoning and land use laws;
3392 and

3393 (c) a private landowner or a guest or client of a private landowner should not be denied
3394 the right of motorized access to the private landowner's property consistent with past uses of
3395 the private property;

3396 (11) manage the subject lands in a manner that supports the fiduciary agreement made
3397 between the state and the federal government concerning the school and institutional trust
3398 lands, as managed according to state law, by:

3399 (a) formally recognizing, by duly authorized federal proclamation, the duty of the
3400 federal government to support the purposes of the school and institutional trust lands owned by
3401 the state and administered by SITLA in trust for the benefit of public schools and other
3402 institutions as mandated in the Utah Constitution and the Utah Enabling Act of 1894, 28 Stat.
3403 107;

3404 (b) actively seeking to support SITLA's fiduciary responsibility to manage the school
3405 trust lands to optimize revenue by making the school trust lands available for sale and private
3406 development and for other multiple and consumptive use activities such as mineral

3407 development, grazing, recreation, timber, and agriculture;

3408 (c) not interfering with SITLA's ability to carry out its fiduciary responsibilities by the
3409 creation of geographical areas burdened with management restrictions that prohibit or
3410 discourage the optimization of revenue, without just compensation;

3411 (d) recognizing SITLA's right of economic access to the school trust lands to enable
3412 SITLA to put those sections to use in its fiduciary responsibilities; and

3413 (e) recognizing any management plan enacted by SITLA pursuant to Section
3414 53C-2-201;

3415 (12) oppose the designation of BLM lands as areas of critical environmental concern
3416 (ACEC), as the BLM lands are generally not compatible with the state's plan and policy for
3417 managing the subject lands, but special cases may exist where such a designation is appropriate
3418 if compliance with FLPMA, 43 U.S.C. Sec. 1702(a) is clearly demonstrated and where the
3419 proposed designation and protection:

3420 (a) is limited to the geographic size to the minimum necessary to meet the standards
3421 required by Section 63J-4-401;

3422 (b) is necessary to protect not just a temporary change in ground conditions or visual
3423 resources that can be reclaimed or reversed naturally, but is clearly shown as necessary to
3424 protect against visible damage on the ground that will persist on a time scale beyond that which
3425 would effectively disqualify the land for a later inventory of wilderness characteristics;

3426 (c) will not be applied in a geographic area already protected by other protective
3427 designations available pursuant to law; and

3428 (d) is not a substitute for the nonimpairment management requirements of wilderness
3429 study areas; and

3430 (13) recognize that a BLM visual resource management class I or II rating is generally
3431 not compatible with the state's plan and policy for managing the subject lands, but special cases
3432 may exist where such a rating is appropriate if jointly considered and created by state, local,
3433 and federal authorities as part of an economic development plan for a region of the state, with
3434 due regard for school trust lands and private lands within the area.

3435 (14) All BLM and Forest Service decision documents should be accompanied with an
3436 analysis of the social and economic impact of the decision. Such analysis should:

3437 (a) consider all facets of the decision in light of valuation techniques for the potential

3438 costs and benefits of the decision;

3439 (b) clarify whether the costs and benefits employ monetized or nonmonetized
3440 techniques;

3441 (c) compare the accuracy, completeness, and viability of monetized and nonmonetized
3442 valuation techniques used as part of the analysis, including all caveats on use of the techniques;
3443 and

3444 (d) compare the valuation techniques employed in the analysis to the federal standards
3445 for valuation employed by the U.S. Department of Justice in court actions.

3446 Section 61. Section **63M-7-502** is amended to read:

3447 **63M-7-502. Definitions.**

3448 As used in this chapter:

3449 (1) "Accomplice" means a person who has engaged in criminal conduct as defined in
3450 Section 76-2-202.

3451 [~~(2)~~] ~~"Assistance officer" means the victim services program coordinator, grant analysts,~~
3452 ~~and other staff employed by the office to perform the duties and functions provided in~~
3453 ~~63M-7-508.5.]~~

3454 [~~(3)~~] (2) "Board" means the Crime Victim Reparations and Assistance Board created
3455 under Section 63M-7-504.

3456 [~~(4)~~] (3) "Bodily injury" means physical pain, illness, or any impairment of physical
3457 condition.

3458 [~~(5)~~] (4) "Claim" means:

3459 (a) the victim's application or request for a reparations award; and

3460 (b) the formal action taken by a victim to apply for reparations pursuant to this chapter.

3461 [~~(6)~~] (5) "Claimant" means any of the following claiming reparations under this
3462 chapter:

3463 (a) a victim;

3464 (b) a dependent of a deceased victim;

3465 (c) a representative other than a collateral source; or

3466 (d) the person or representative who files a claim on behalf of a victim.

3467 [~~(7)~~] (6) "Child" means an unemancipated person who is under 18 years of age.

3468 [~~(8)~~] (7) "Collateral source" means the definition as provided in Section 63M-7-513.

3469 [~~(9)~~] (8) "Contested case" means a case which the claimant contests, claiming the
3470 award was either inadequate or denied, or which a county attorney, a district attorney, a law
3471 enforcement officer, or other individual related to the criminal investigation proffers reasonable
3472 evidence of the claimant's lack of cooperation in the prosecution of a case after an award has
3473 already been given.

3474 [~~(10)~~] (9) (a) "Criminally injurious conduct" other than acts of war declared or not
3475 declared means conduct that:

3476 (i) is or would be subject to prosecution in this state under Section 76-1-201;
3477 (ii) occurs or is attempted;
3478 (iii) causes, or poses a substantial threat of causing, bodily injury or death;
3479 (iv) is punishable by fine, imprisonment, or death if the person engaging in the conduct
3480 possessed the capacity to commit the conduct; and

3481 (v) does not arise out of the ownership, maintenance, or use of a motor vehicle,
3482 aircraft, or water craft, unless the conduct is intended to cause bodily injury or death, or is
3483 conduct which is or would be punishable under Title 76, Chapter 5, Offenses Against the
3484 Person, or as any offense chargeable as driving under the influence of alcohol or drugs.

3485 (b) "Criminally injurious conduct" includes an act of terrorism, as defined in 18 U.S.C.
3486 Sec. 2331 committed outside of the United States against a resident of this state. "Terrorism"
3487 does not include an "act of war" as defined in 18 U.S.C. Sec. 2331.

3488 [~~(11)~~] (10) "Dependent" means a natural person to whom the victim is wholly or
3489 partially legally responsible for care or support and includes a child of the victim born after the
3490 victim's death.

3491 [~~(12)~~] (11) "Dependent's economic loss" means loss after the victim's death of
3492 contributions of things of economic value to the victim's dependent, not including services the
3493 dependent would have received from the victim if the victim had not suffered the fatal injury,
3494 less expenses of the dependent avoided by reason of victim's death.

3495 [~~(13)~~] (12) "Dependent's replacement services loss" means loss reasonably and
3496 necessarily incurred by the dependent after the victim's death in obtaining services in lieu of
3497 those the decedent would have performed for the victim's benefit if the victim had not suffered
3498 the fatal injury, less expenses of the dependent avoided by reason of the victim's death and not
3499 subtracted in calculating the dependent's economic loss.

3500 [~~(14)~~] (13) "Director" means the director of the Utah Office for Victims of Crime.

3501 [~~(15)~~] (14) "Disposition" means the sentencing or determination of penalty or

3502 punishment to be imposed upon a person:

3503 (a) convicted of a crime;

3504 (b) found delinquent; or

3505 (c) against whom a finding of sufficient facts for conviction or finding of delinquency

3506 is made.

3507 [~~(16)~~] (15) "Economic loss" means economic detriment consisting only of allowable

3508 expense, work loss, replacement services loss, and if injury causes death, dependent's economic

3509 loss and dependent's replacement service loss. Noneconomic detriment is not loss, but

3510 economic detriment is loss although caused by pain and suffering or physical impairment.

3511 [~~(17)~~] (16) "Elderly victim" means a person 60 years of age or older who is a victim.

3512 [~~(18)~~] (17) "Fraudulent claim" means a filed claim based on material misrepresentation

3513 of fact and intended to deceive the reparations staff for the purpose of obtaining reparation

3514 funds for which the claimant is not eligible as provided in Section 63M-7-510.

3515 [~~(19)~~] (18) "Fund" means the Crime Victim Reparations Fund created in Section

3516 51-9-404.

3517 [~~(20)~~] (19) "Law enforcement officer" means a law enforcement officer as defined in

3518 Section 53-13-103.

3519 [~~(21)~~] (20) "Medical examination" means a physical examination necessary to

3520 document criminally injurious conduct but does not include mental health evaluations for the

3521 prosecution and investigation of a crime.

3522 [~~(22)~~] (21) "Mental health counseling" means outpatient and inpatient counseling

3523 necessitated as a result of criminally injurious conduct. The definition of mental health

3524 counseling is subject to rules promulgated by the board pursuant to Title 63G, Chapter 3, Utah

3525 Administrative Rulemaking Act.

3526 [~~(23)~~] (22) "Misconduct" as provided in Subsection 63M-7-512(1)(b) means conduct

3527 by the victim which was attributable to the injury or death of the victim as provided by rules

3528 promulgated by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking

3529 Act.

3530 [~~(24)~~] (23) "Noneconomic detriment" means pain, suffering, inconvenience, physical

3531 impairment, and other nonpecuniary damage, except as provided in this chapter.

3532 ~~[(25)]~~ (24) "Pecuniary loss" does not include loss attributable to pain and suffering
3533 except as otherwise provided in this chapter.

3534 ~~[(26)]~~ (25) "Offender" means a person who has violated the criminal code through
3535 criminally injurious conduct regardless of whether the person is arrested, prosecuted, or
3536 convicted.

3537 ~~[(27)]~~ (26) "Offense" means a violation of the criminal code.

3538 ~~[(28)]~~ (27) "Perpetrator" means the person who actually participated in the criminally
3539 injurious conduct.

3540 ~~[(29)]~~ (28) "Reparations officer" means a person employed by the office to investigate
3541 claims of victims and award reparations under this chapter, and includes the director when the
3542 director is acting as a reparations officer.

3543 ~~[(30)]~~ (29) "Replacement service loss" means expenses reasonably and necessarily
3544 incurred in obtaining ordinary and necessary services in lieu of those the injured person would
3545 have performed, not for income but the benefit of the injured person or the injured person's
3546 dependents if the injured person had not been injured.

3547 ~~[(31)]~~ (30) "Representative" means the victim, immediate family member, legal
3548 guardian, attorney, conservator, executor, or an heir of a person but does not include service
3549 providers.

3550 ~~[(32)]~~ (31) "Restitution" means money or services an appropriate authority orders an
3551 offender to pay or render to a victim of the offender's conduct.

3552 ~~[(33)]~~ (32) "Secondary victim" means a person who is traumatically affected by the
3553 criminally injurious conduct subject to rules promulgated by the board pursuant to Title 63G,
3554 Chapter 3, Utah Administrative Rulemaking Act.

3555 ~~[(34)]~~ (33) "Service provider" means a person or agency who provides a service to
3556 crime victims for a monetary fee except attorneys as provided in Section 63M-7-524.

3557 ~~[(35)]~~ (34) "Utah Office for Victims of Crime" or "office" means the director, the
3558 reparations and assistance officers, and any other staff employed for the purpose of carrying out
3559 the provisions of this chapter.

3560 ~~[(36)]~~ (35) (a) "Victim" means a person who suffers bodily or psychological injury or
3561 death as a direct result of criminally injurious conduct or of the production of pornography in

3562 violation of Section 76-5b-201 if the person is a minor.

3563 (b) "Victim" does not include a person who participated in or observed the judicial
3564 proceedings against an offender unless otherwise provided by statute or rule.

3565 (c) "Victim" includes a resident of this state who is injured or killed by an act of
3566 terrorism, as defined in 18 U.S.C. 2331, committed outside of the United States.

3567 ~~[(37)]~~ (36) "Work loss" means loss of income from work the injured victim would
3568 have performed if the injured victim had not been injured and expenses reasonably incurred by
3569 the injured victim in obtaining services in lieu of those the injured victim would have
3570 performed for income, reduced by any income from substitute work the injured victim was
3571 capable of performing but unreasonably failed to undertake.

3572 Section 62. Section **64-13-42** is amended to read:

3573 **64-13-42. Prison Telephone Surcharge Account -- Funding inmate and offender**
3574 **education and training programs.**

3575 (1) (a) There is created within the General Fund a restricted account known as the
3576 Prison Telephone Surcharge Account.

3577 (b) The Prison Telephone Surcharge Account consists of:

3578 (i) beginning July 1, 2006, revenue generated by the state from pay telephone services
3579 located at any correctional facility as defined in Section 64-13-1;

3580 (ii) interest on account money; ~~[and]~~

3581 (iii) (A) money paid by inmates participating in postsecondary education provided by
3582 the department; and

3583 (B) money repaid by former inmates who have a written agreement with the
3584 department to pay for a specified portion of the tuition costs under the department's deferred
3585 tuition payment program;

3586 (iv) money collected by the Office of State Debt Collection for debt described in
3587 Subsection (1)(b)(iii); and

3588 (v) money appropriated by the Legislature.

3589 (2) Upon appropriation by the Legislature, money from the Prison Telephone
3590 Surcharge Account shall be used by the department for education and training programs for
3591 offenders and inmates as defined in Section 64-13-1.

3592 (3) Funds appropriated from the Prison Telephone Surcharge Account may only be

3593 used by the department for purposes under Subsections 53A-1-403.5(3)(a)(i) and (iv).

3594 Section 63. Section **67-5-12** is amended to read:

3595 **67-5-12. Dismissal of career status employees -- Causes -- Procedure -- Retention**
3596 **roster -- Reappointment register.**

3597 (1) (a) Employees in a career status may be dismissed only:

3598 (i) to advance the good of public service;

3599 (ii) where funds have expired or work no longer exists; or

3600 (iii) for any of the following causes or reasons:

3601 (A) noncompliance with provisions in the Office of Attorney General policy manual, or
3602 division policies, and, for attorneys, noncompliance with the Rules of Professional Conduct;

3603 (B) work performance that is inefficient or incompetent;

3604 (C) failure to maintain skills and adequate performance levels;

3605 (D) insubordination or disloyalty to the orders of a superior;

3606 (E) misfeasance, malfeasance, or nonfeasance;

3607 (F) failure to advance the good of the public service, including conduct on or off duty
3608 which demeans or harms the effectiveness or ability of the office to fulfill its mission or legal
3609 obligations;

3610 (G) conduct on or off duty which creates a conflict of interest with the employee's
3611 public responsibilities or impact that employee's ability to perform his or her job assignments;

3612 (H) any incident involving intimidation, physical harm, threats of physical harm
3613 against coworkers, management, or the public;

3614 (I) failure to meet the requirements of the position;

3615 (J) dishonesty; or

3616 (K) misconduct.

3617 (b) Employees in career status may not be dismissed for reasons of race, national
3618 origin, religion, or political affiliation.

3619 (2) Except in aggravated cases of misconduct, an employee in a career status may not
3620 be suspended, demoted, or dismissed without the following procedures:

3621 (a) The attorney general or a designated representative shall notify the employee of the
3622 reasons for suspension, demotion, or dismissal.

3623 (b) The employee shall have an opportunity to reply and have the reply considered by

3624 the attorney general or a designated representative.

3625 (c) The employee shall have an opportunity to be heard by the attorney general or a
3626 designated representative.

3627 (d) Following a hearing, an employee may be suspended, demoted, or dismissed if the
3628 attorney general or a designated representative finds adequate reason.

3629 (e) If the attorney general or a designated representative finds that retention of an
3630 employee would endanger the peace and safety of others or pose a grave threat to the public
3631 interest, the employee may be summarily suspended pending administrative hearings and a
3632 review by the Career Service Review ~~[Board]~~ Office.

3633 (3) (a) An employee in a career status who is aggrieved by a decision of the attorney
3634 general or a designated representative to suspend, demote, or dismiss the employee may appeal
3635 the decision to the Career Service Review ~~[Board]~~ Office or its hearing officers by following
3636 the procedures in Title 67, Chapter 19a, Grievance ~~[and Appeal]~~ Procedures.

3637 (b) Matters other than dismissal or demotion may be appealed to and reviewed by the
3638 attorney general or a designated representative whose decision is final with no right of appeal
3639 to the Career Service Review ~~[Board]~~ Office or its hearing officers.

3640 (4) Disciplinary actions shall be supported by credible evidence, but the normal rules
3641 of evidence in courts of law do not apply in hearings before the attorney general or a designated
3642 representative or the Career Service Review ~~[Board]~~ Office or its hearing officers.

3643 (5) (a) Reductions in force required by reinstatement of an employee under Section
3644 67-5-11, inadequate funds, change of workload, or lack of work shall be governed by a
3645 retention roster to be maintained by the Office of the Attorney General and the requirements of
3646 this Subsection (5).

3647 (b) Except attorney general executive or administrative appointees, employees not in a
3648 career status shall be separated before any employee in a career status.

3649 (c) Retention points for each employee in a career status shall be based on the
3650 employee's seniority in service within each employee category in the Office of the Attorney
3651 General, including any military service fulfilled subsequent to the employee's original
3652 appointment.

3653 (d) Employees in career status shall be separated in the order of their retention points,
3654 the employee with the lowest points to be discharged first.

3655 (e) Those employees who are serving in other positions under Section 67-5-11 shall:
3656 (i) have retention points determined as if they were working for the office; and
3657 (ii) be separated in the order of the retention points as if they were working in the
3658 Office of the Attorney General.

3659 (f) An employee in a career status who is separated by reason of a reduction in force
3660 shall be:

3661 (i) placed on a reappointment register kept by the Office of the Attorney General for
3662 one year; and

3663 (ii) offered reappointment to a position in the same category in the Office of the
3664 Attorney General before any employee not having a career status is appointed.

3665 Section 64. Section **67-22-2** is amended to read:

3666 **67-22-2. Compensation -- Other state officers.**

3667 (1) As used in this section:

3668 (a) "Appointed executive" means the:

3669 (i) Commissioner of the Department of Agriculture and Food;

3670 (ii) Commissioner of the Insurance Department;

3671 (iii) Commissioner of the Labor Commission;

3672 (iv) Director, Department of Alcoholic Beverage Control [~~Commission~~];

3673 (v) Commissioner of the Department of Financial Institutions;

3674 (vi) Executive Director, Department of Commerce;

3675 (vii) Executive Director, Commission on Criminal and Juvenile Justice;

3676 (viii) Adjutant General;

3677 (ix) Executive Director, Department of Community and Culture;

3678 (x) Executive Director, Department of Corrections;

3679 (xi) Commissioner, Department of Public Safety;

3680 (xii) Executive Director, Department of Natural Resources;

3681 (xiii) Director, Governor's Office of Planning and Budget;

3682 (xiv) Executive Director, Department of Administrative Services;

3683 (xv) Executive Director, Department of Human Resource Management;

3684 (xvi) Executive Director, Department of Environmental Quality;

3685 (xvii) Director, Governor's Office of Economic Development;

3686 (xviii) Executive Director, Utah Science Technology and Research Governing
3687 Authority;

3688 (xix) Executive Director, Department of Workforce Services;
3689 (xx) Executive Director, Department of Health, Nonphysician;
3690 (xxi) Executive Director, Department of Human Services;
3691 (xxii) Executive Director, Department of Transportation;
3692 (xxiii) Executive Director, Department of Technology Services; and
3693 (xxiv) Executive Director, Department of Veterans Affairs.

3694 (b) "Board or commission executive" means:

3695 (i) Members, Board of Pardons and Parole;
3696 (ii) Chair, State Tax Commission;
3697 (iii) Commissioners, State Tax Commission;
3698 (iv) Executive Director, State Tax Commission;
3699 (v) Chair, Public Service Commission; and
3700 (vi) Commissioners, Public Service Commission.

3701 (c) "Deputy" means the person who acts as the appointed executive's second in
3702 command as determined by the Department of Human Resource Management.

3703 (2) (a) The executive director of the Department of Human Resource Management
3704 shall:

3705 (i) before October 31 of each year, recommend to the governor a compensation plan for
3706 the appointed executives and the board or commission executives; and
3707 (ii) base those recommendations on market salary studies conducted by the Department
3708 of Human Resource Management.

3709 (b) (i) The Department of Human Resource Management shall determine the salary
3710 range for the appointed executives by:

3711 (A) identifying the salary range assigned to the appointed executive's deputy;
3712 (B) designating the lowest minimum salary from those deputies' salary ranges as the
3713 minimum salary for the appointed executives' salary range; and
3714 (C) designating 105% of the highest maximum salary range from those deputies' salary
3715 ranges as the maximum salary for the appointed executives' salary range.

3716 (ii) If the deputy is a medical doctor, the Department of Human Resource Management

3717 may not consider that deputy's salary range in designating the salary range for appointed
3718 executives.

3719 (c) In establishing the salary ranges for board or commission executives, the
3720 Department of Human Resource Management shall set the maximum salary in the salary range
3721 for each of those positions at 90% of the salary for district judges as established in the annual
3722 appropriation act under Section 67-8-2.

3723 (3) (a) (i) Except as provided in Subsection (3)(a)(ii), the governor shall establish a
3724 specific salary for each appointed executive within the range established under Subsection
3725 (2)(b).

3726 (ii) If the executive director of the Department of Health is a physician, the governor
3727 shall establish a salary within the highest physician salary range established by the Department
3728 of Human Resource Management.

3729 (iii) The governor may provide salary increases for appointed executives within the
3730 range established by Subsection (2)(b) and identified in Subsection (3)(a)(ii).

3731 (b) The governor shall apply the same overtime regulations applicable to other FLSA
3732 exempt positions.

3733 (c) The governor may develop standards and criteria for reviewing the appointed
3734 executives.

3735 (4) Salaries for other Schedule A employees, as defined in Section 67-19-15, that are
3736 not provided for in this chapter, or in Title 67, Chapter 8, Utah Elected Official and Judicial
3737 Salary Act, shall be established as provided in Section 67-19-15.

3738 (5) (a) The Legislature fixes benefits for the appointed executives and the board or
3739 commission executives as follows:

3740 (i) the option of participating in a state retirement system established by Title 49, Utah
3741 State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered
3742 by the State Retirement Office in accordance with the Internal Revenue Code and its
3743 accompanying rules and regulations;

3744 (ii) health insurance;

3745 (iii) dental insurance;

3746 (iv) basic life insurance;

3747 (v) unemployment compensation;

- 3748 (vi) workers' compensation;
- 3749 (vii) required employer contribution to Social Security;
- 3750 (viii) long-term disability income insurance;
- 3751 (ix) the same additional state-paid life insurance available to other noncareer service
- 3752 employees;
- 3753 (x) the same severance pay available to other noncareer service employees;
- 3754 (xi) the same leave, holidays, and allowances granted to Schedule B state employees as
- 3755 follows:
- 3756 (A) sick leave;
- 3757 (B) converted sick leave if accrued prior to January 1, 2014;
- 3758 (C) educational allowances;
- 3759 (D) holidays; and
- 3760 (E) annual leave except that annual leave shall be accrued at the maximum rate
- 3761 provided to Schedule B state employees;
- 3762 (xii) the option to convert accumulated sick leave to cash or insurance benefits as
- 3763 provided by law or rule upon resignation or retirement according to the same criteria and
- 3764 procedures applied to Schedule B state employees;
- 3765 (xiii) the option to purchase additional life insurance at group insurance rates according
- 3766 to the same criteria and procedures applied to Schedule B state employees; and
- 3767 (xiv) professional memberships if being a member of the professional organization is a
- 3768 requirement of the position.
- 3769 (b) Each department shall pay the cost of additional state-paid life insurance for its
- 3770 executive director from its existing budget.
- 3771 (6) The Legislature fixes the following additional benefits:
- 3772 (a) for the executive director of the State Tax Commission a vehicle for official and
- 3773 personal use;
- 3774 (b) for the executive director of the Department of Transportation a vehicle for official
- 3775 and personal use;
- 3776 (c) for the executive director of the Department of Natural Resources a vehicle for
- 3777 commute and official use;
- 3778 (d) for the Commissioner of Public Safety:

- 3779 (i) an accidental death insurance policy if POST certified; and
- 3780 (ii) a public safety vehicle for official and personal use;
- 3781 (e) for the executive director of the Department of Corrections:
- 3782 (i) an accidental death insurance policy if POST certified; and
- 3783 (ii) a public safety vehicle for official and personal use;
- 3784 (f) for the Adjutant General a vehicle for official and personal use; and
- 3785 (g) for each member of the Board of Pardons and Parole a vehicle for commute and
- 3786 official use.

3787 Section 65. Section **69-2-2** is amended to read:

3788 **69-2-2. Definitions.**

3789 As used in this chapter:

3790 (1) "911 emergency telephone service" means a communication system which provides
3791 citizens with rapid direct access to public emergency operation centers by dialing the telephone
3792 number "911" with the objective of reducing the response time to situations requiring law
3793 enforcement, fire, medical, rescue, and other emergency services.

3794 (2) "Local exchange service" means the provision of public telecommunications
3795 services by a wireline common carrier to customers within a geographic area encompassing one
3796 or more local communities as described in the carrier's service territory maps, tariffs, price
3797 lists, or rate schedules filed with and approved by the Public Service Commission.

3798 (3) "Local exchange service switched access line" means the transmission facility and
3799 local switching equipment used by a wireline common carrier to connect a customer location to
3800 a carrier's local exchange switching network for providing two-way interactive voice, or voice
3801 capable, services.

3802 (4) "Mobile telecommunications service" is as defined in Section 54-8b-2.

3803 (5) "Public agency" means any county, city, town, special service district, or public
3804 authority located within the state which provides or has authority to provide fire fighting, law
3805 enforcement, ambulance, medical, or other emergency services.

3806 (6) "Public safety agency" means a functional division of a public agency which
3807 provides fire fighting, law enforcement, medical, or other emergency services.

3808 (7) "Public safety answering point" means a facility that:

- 3809 (a) is equipped and staffed under the authority of a political subdivision; and

3810 (b) receives 911 calls, other calls for emergency services, and asynchronous event
3811 notifications for a defined geographic area.

3812 (8) "Radio communications access line" means the radio equipment and assigned
3813 customer identification number used to connect a mobile or fixed radio customer in Utah to a
3814 radio communication service provider's network for two-way interactive voice, or voice
3815 capable, services.

3816 (9) "Radio communications service" means a public telecommunications service
3817 providing the capability of two-way interactive telecommunications between mobile and fixed
3818 radio customers, and between mobile or fixed radio customers and the local exchange service
3819 network customers of a wireline common carrier. Radio communications service providers
3820 include corporations, persons or entities offering cellular telephone service, enhanced
3821 specialized mobile radio service, rural radio service, radio common carrier services, personal
3822 communications services, and any equivalent wireless public telecommunications service, as
3823 defined in 47 CFR, parts 20, [21,] 22, 24, and 90.

3824 (10) "Wireline common carrier" means a public telecommunications service provider
3825 that primarily uses metallic or nonmetallic cables and wires for connecting customers to its
3826 local exchange service networks.

3827 Section 66. Section **72-6-302** is amended to read:

3828 **72-6-302. Definitions.**

3829 As used in this [section] part:

3830 (1) "Sovereign lands" has the same meaning as defined in Section 65A-1-1.

3831 (2) "Tollway" has the same meaning as defined in Section 72-6-118.

3832 Section 67. Section **76-8-401** is amended to read:

3833 **76-8-401. "Public funds," "public money," and "public officer" defined.**

3834 As used in this title:

3835 (1) "Public [~~money~~] funds" [~~and~~] or "public [~~funds~~] money" means [~~money~~] funds,
3836 [~~funds~~] money, and accounts, regardless of the source from which they are derived, that are
3837 owned, held, or administered by the state or any of its boards, commissions, institutions,
3838 departments, divisions, agencies, bureaus, laboratories, or other similar instrumentalities, or
3839 any county, city, school district, political subdivision, or other public body. "Public money"
3840 also includes money, funds, or accounts that have been transferred by any of those public

3841 entities to a private contract provider of programs or services. The money, funds, or accounts
3842 maintain the nature of public money while in the possession of the private entity that has
3843 contracted with a public entity to provide programs or services.

3844 (2) "Public officer" means:

3845 (a) all elected officials of the state, a political subdivision of the state, a county, town,
3846 city, precinct, or district;

3847 (b) a person appointed to or serving an unexpired term of an elected office;

3848 (c) a judge of a court of record and not of record including justice court judges; and

3849 (d) a member of the Board of Pardons and Parole.

3850 Section 68. Section **78A-6-1104** is amended to read:

3851 **78A-6-1104. When photographs, fingerprints, or HIV infection tests may be**
3852 **taken -- Distribution -- Expungement.**

3853 (1) The Division of Juvenile Justice Services shall take a photograph and fingerprints of
3854 all minors 14 years of age or older who are admitted to a detention facility operated by the
3855 Division of Juvenile Justice Services for the alleged commission of an offense that would be a
3856 felony if the minor were 18 years of age or older.

3857 (2) The Juvenile Court shall order a minor 14 years of age or older to have [~~their~~] the
3858 minor's fingerprints taken at a detention facility operated by the Division of Juvenile Justice
3859 Services or a local law enforcement agency if the minor is:

3860 (a) adjudicated for an offense that would be a class A misdemeanor if the minor were
3861 18 years of age or older; or

3862 (b) adjudicated for an offense that would be a felony if the minor were 18 years of age
3863 or older and the minor was not admitted to a detention facility operated by the Division of
3864 Juvenile Justice Services.

3865 (3) The Juvenile Court shall take a photograph of all minors 14 years of age or older
3866 who are adjudicated for an offense that would be a felony or a class A misdemeanor if the
3867 minor were 18 years of age or older.

3868 (4) Fingerprints shall be forwarded to the Bureau of Criminal Identification and may be
3869 stored by electronic medium.

3870 (5) HIV testing shall be conducted on a minor who is taken into custody after having
3871 been adjudicated to have violated state law prohibiting a sexual offense under Title 76, Chapter

3872 5, Part 4, Sexual Offenses, upon the request of the victim, the parent or guardian of a victim
3873 younger than 14 years of age, or the legal guardian of the alleged victim if the victim is a
3874 vulnerable adult as defined in Section 62A-3-301.

3875 (6) HIV testing shall be conducted on a minor against whom a petition has been filed
3876 or a pickup order has been issued for commission of any offense under Title 76, Chapter 5, Part
3877 4, Sexual Offenses, upon the request of the victim, the parent or guardian of a victim younger
3878 than 14 years of age, or the legal guardian of the alleged victim if the victim is a vulnerable
3879 adult as defined in Section 62A-3-301, and regarding which:

3880 (a) a judge has signed an accompanying arrest warrant, pickup order, or any other order
3881 based upon probable cause regarding the alleged offense; and

3882 (b) the judge has found probable cause to believe that the alleged victim has been
3883 exposed to HIV infection as a result of the alleged offense.

3884 (7) HIV tests, photographs, and fingerprints may not be taken of a child younger than
3885 14 years of age without the consent of the court.

3886 (8) (a) Photographs taken under this section may be distributed or disbursed to the
3887 following individuals or agencies:

3888 (i) state and local law enforcement agencies;

3889 (ii) the judiciary; and

3890 (iii) the Division of Juvenile Justice Services.

3891 (b) Fingerprints may be distributed or disbursed to the following individuals or
3892 agencies:

3893 (i) state and local law enforcement agencies;

3894 (ii) the judiciary;

3895 (iii) the Division of Juvenile Justice Services; and

3896 (iv) agencies participating in the Western Identification Network.

3897 (9) When a minor's juvenile record is expunged, all photographs and other records as
3898 ordered shall upon court order be destroyed by the law enforcement agency. Fingerprint
3899 records may not be destroyed.

3900 **Section 69. Repealer.**

3901 This bill repeals:

3902 **Section 31A-42a-103 (Effective 01/01/13), Applicability and scope.**

3903 Section **53A-25-106**, Board member expenses.

3904 Section **63G-11-101**, Title.

Legislative Review Note
as of **12-19-11 2:52 PM**

Office of Legislative Research and General Counsel