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₵ 01-31-14 10:46 AM ₵

REVISOR'S STATUTE

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ralph Okerlund

House Sponsor: Brad L. Dee

LONG TITLE

General Description:

This bill modifies parts of the Utah Code to make technical corrections, including eliminating references to repealed provisions, making minor wording changes, updating cross-references, and correcting numbering.

Highlighted Provisions:

This bill:

- modifies parts of the Utah Code to make technical corrections, including eliminating references to repealed provisions, making minor wording changes, updating cross-references, correcting numbering, and fixing errors that were created from the previous year's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

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides effective dates.

Utah Code Sections Affected:

AMENDS:

4-20-3, as last amended by Laws of Utah 2012, Chapter 331

4-32-11, as last amended by Laws of Utah 2010, Chapter 242

4-37-202, as last amended by Laws of Utah 2010, Chapter 378

4-37-302, as last amended by Laws of Utah 2010, Chapter 378

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4-39-401, as enacted by Laws of Utah 1997, Chapter 302
7-1-103, as last amended by Laws of Utah 2013, Chapter 73
7-1-403, as last amended by Laws of Utah 1986, Fourth Special Session, Chapter 1
7-1-616, as last amended by Laws of Utah 1996, Chapter 182
7-1-703, as last amended by Laws of Utah 1995, Chapter 49
7-1-710, as enacted by Laws of Utah 1983, Chapter 8
7-1-802, as last amended by Laws of Utah 2000, Chapter 260
7-2-1, as last amended by Laws of Utah 1994, Chapter 200
7-2-2, as last amended by Laws of Utah 1994, Chapter 200
7-2-12, as last amended by Laws of Utah 2010, Chapter 378
7-3-1, as enacted by Laws of Utah 1981, Chapter 16
7-5-2, as last amended by Laws of Utah 2010, Chapter 378
7-5-6, as last amended by Laws of Utah 1982, Chapter 6
7-5-7, as last amended by Laws of Utah 2010, Chapter 378
7-5-8, as last amended by Laws of Utah 2010, Chapter 378
7-5-11, as last amended by Laws of Utah 2010, Chapter 378
7-5-15, as last amended by Laws of Utah 1994, Chapter 200
7-9-25, as last amended by Laws of Utah 1983, Chapter 8
7-9-39.5, as last amended by Laws of Utah 2003, Chapter 327
7-9-42, as enacted by Laws of Utah 1981, Chapter 16
7-9-45, as last amended by Laws of Utah 1999, Chapter 329
7-9-55, as enacted by Laws of Utah 2003, Chapter 327
7-9-58, as last amended by Laws of Utah 2008, Chapter 126
7-14-1, as last amended by Laws of Utah 1995, Chapter 20
7-19-1, as last amended by Laws of Utah 1995, Chapter 49
9-1-801, as enacted by Laws of Utah 1994, Chapter 119
9-6-205, as last amended by Laws of Utah 2012, Chapter 212
9-7-501, as last amended by Laws of Utah 1993, Chapter 227
9-8-301, as last amended by Laws of Utah 2005, Chapter 145
9-8-307, as last amended by Laws of Utah 1995, Chapter 170
9-8-405, as last amended by Laws of Utah 2008, Chapter 382

10-1-114, as last amended by Laws of Utah 1999, Chapter 21
10-1-119, as last amended by Laws of Utah 2013, Chapter 325
10-1-203, as last amended by Laws of Utah 2012, Chapter 289
10-2-125, as last amended by Laws of Utah 2012, Chapter 359
10-2-126, as enacted by Laws of Utah 2012, Chapter 359
10-8-62, as last amended by Laws of Utah 2001, Chapter 9
10-8-63, as last amended by Laws of Utah 2001, Chapter 9
10-18-104, as enacted by Laws of Utah 2001, Chapter 83
11-13-303, as last amended by Laws of Utah 2008, Chapter 382
11-13-315, as enacted by Laws of Utah 2013, Chapter 230
11-14-301, as last amended by Laws of Utah 2012, Chapter 204
11-17-14, as enacted by Laws of Utah 1967, Chapter 29
11-32-4, as last amended by Laws of Utah 1995, Chapter 181
11-42-604, as last amended by Laws of Utah 2009, Chapter 388
13-1a-5, as last amended by Laws of Utah 2008, Chapter 382
13-22-8, as last amended by Laws of Utah 2009, Chapter 183
13-23-5, as last amended by Laws of Utah 2013, Chapter 124
13-26-4, as last amended by Laws of Utah 1996, Chapter 170
13-32a-104, as last amended by Laws of Utah 2012, Chapter 284
13-32a-115, as enacted by Laws of Utah 2012, Chapter 284
13-32a-117, as last amended by Laws of Utah 2013, Chapter 124
13-47-102 (Contingently Repealed), as enacted by Laws of Utah 2010, Chapter 403
13-47-201 (Contingently Repealed), as enacted by Laws of Utah 2010, Chapter 403
15-8-4, as last amended by Laws of Utah 2007, Chapter 272
15-9-103, as last amended by Laws of Utah 2010, Chapter 74
15-10-201, as last amended by Laws of Utah 2011, Chapter 262
15A-1-204, as enacted by Laws of Utah 2011, Chapter 14
15A-2-102, as enacted by Laws of Utah 2011, Chapter 14
15A-2-104, as last amended by Laws of Utah 2013, Chapter 297
15A-3-201, as enacted by Laws of Utah 2011, Chapter 14
15A-3-306, as last amended by Laws of Utah 2013, Chapter 297

15A-4-201, as enacted by Laws of Utah 2011, Chapter 14
15A-5-103, as last amended by Laws of Utah 2013, Chapter 199
16-6a-1011, as enacted by Laws of Utah 2000, Chapter 300
16-6a-1202, as enacted by Laws of Utah 2000, Chapter 300
16-6a-1701, as enacted by Laws of Utah 2000, Chapter 300
16-6a-1702, as last amended by Laws of Utah 2008, Chapter 250
16-10a-402, as enacted by Laws of Utah 1992, Chapter 277
16-10a-901, as enacted by Laws of Utah 1992, Chapter 277
16-10a-1106, as enacted by Laws of Utah 1992, Chapter 277
16-10a-1301, as enacted by Laws of Utah 1992, Chapter 277
16-10a-1405, as enacted by Laws of Utah 1992, Chapter 277
16-16-113, as last amended by Laws of Utah 2010, Chapter 378
17-18a-405, as enacted by Laws of Utah 2013, Chapter 237
17-23-17.5, as last amended by Laws of Utah 2001, Chapter 241
17-23-19, as last amended by Laws of Utah 1993, Chapter 227
17-27a-205, as last amended by Laws of Utah 2013, Chapter 324
17-27a-301, as last amended by Laws of Utah 2011, Chapters 107 and 305
17-27a-512, as last amended by Laws of Utah 2009, Chapters 170 and 233
17-36-3, as last amended by Laws of Utah 2012, Chapter 17
17-36-39, as last amended by Laws of Utah 2004, Chapter 206
17-53-301, as last amended by Laws of Utah 2001, Chapter 241
17B-1-121, as enacted by Laws of Utah 2011, Chapter 205
17B-1-512, as last amended by Laws of Utah 2011, Chapter 297
17B-2a-902, as last amended by Laws of Utah 2012, Chapter 97
17B-2a-905, as last amended by Laws of Utah 2013, Chapter 70
17C-4-202, as last amended by Laws of Utah 2010, Chapters 90 and 279
17D-3-105, as enacted by Laws of Utah 2012, Chapter 103
20A-1-306, as enacted by Laws of Utah 2011, Chapter 17
26-28-112, as enacted by Laws of Utah 2007, Chapter 60
36-23-109, as enacted by Laws of Utah 2013, Chapter 323
38-8-3.5, as enacted by Laws of Utah 2013, Chapter 163

39-6-36, as enacted by Laws of Utah 1988, Chapter 210
48-1d-1305, as enacted by Laws of Utah 2013, Chapter 412
53-5-707, as last amended by Laws of Utah 2013, Chapter 280
53-13-110, as renumbered and amended by Laws of Utah 1998, Chapter 282
53A-1a-521, as last amended by Laws of Utah 2013, Chapter 239
53A-3-701, as last amended by Laws of Utah 2003, Chapter 221
53A-16-107, as last amended by Laws of Utah 2011, Chapters 153, 369, and 371
53A-16-114, as last amended by Laws of Utah 2011, Chapter 342 and renumbered and amended by Laws of Utah 2011, Chapter 371
53A-17a-133, as last amended by Laws of Utah 2013, Chapters 178 and 313
53A-25a-102, as enacted by Laws of Utah 1994, Chapter 280
54-3-31, as enacted by Laws of Utah 2013, Chapter 242
57-8-7.5 (Effective 07/01/14), as last amended by Laws of Utah 2013, Chapters 152, 419 and last amended by Coordination Clause, Laws of Utah 2013, Chapter 152
57-8-43, as last amended by Laws of Utah 2013, Chapter 152
57-8a-211 (Superseded 07/01/14), as last amended by Laws of Utah 2013, Chapter 419
58-40-302, as enacted by Laws of Utah 2012, Chapter 82
58-60-506, as last amended by Laws of Utah 2013, Chapter 123
58-77-601, as last amended by Laws of Utah 2008, Chapter 365
59-14-302, as last amended by Laws of Utah 2013, Chapter 148
63C-13-107, as enacted by Laws of Utah 2013, Chapter 228
63G-12-306, as enacted by Laws of Utah 2011, Chapter 18
63I-1-253, as last amended by Laws of Utah 2012, Chapter 369
63I-1-263, as last amended by Laws of Utah 2013, Chapters 28, 62, 101, 167, 250, and 413
63I-2-217, as last amended by Laws of Utah 2012, Chapter 17
63I-2-236, as last amended by Laws of Utah 2013, Chapter 283
63I-2-253, as lst amended by Laws of Utah 2013, Chapters 173 and 434
63I-2-277, as last amended by Laws of Utah 2012, Chapter 17
63I-4a-202, as renumbered and amended by Laws of Utah 2013, Chapter 325
63J-1-206, as last amended by Laws of Utah 2013, Chapter 310

63J-1-505, as renumbered and amended by Laws of Utah 2009, Chapter 183

63J-1-602.3, as last amended by Laws of Utah 2013, Chapters 117, 295 and last amended by Coordination Clause, Laws of Utah 2013, Chapter 117

63J-1-602.4, as last amended by Laws of Utah 2013, Chapter 28

63M-1-3203, as enacted by Laws of Utah 2013, Chapter 336

70A-2a-533, as enacted by Laws of Utah 1990, Chapter 197

76-1-501, as last amended by Laws of Utah 2013, Chapter 278

76-5-102.4, as last amended by Laws of Utah 2013, Chapter 156

78A-2-301, as last amended by Laws of Utah 2012, Chapter 247

78A-7-301, as last amended by Laws of Utah 2011, Chapter 143

78B-3-421, as renumbered and amended by Laws of Utah 2008, Chapter 3

RENUMBERS AND AMENDS:

4-18-108, (Renumbered from 4-18-6.5, as last amended by Laws of Utah 2008, Chapter 382)

REPEALS:

63G-13-203, as enacted by Laws of Utah 2011, Chapter 19

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

Section 1. Section **4-18-108**, which is renumbered from Section 4-18-6.5 is renumbered and amended to read:

[~~4-18-6.5~~]. 4-18-108. Grants to improve manure management or control runoff at animal feeding operations.

(1) (a) The commission may make grants to owners or operators of animal feeding operations to pay for costs of plans or projects to improve manure management or control surface water runoff, including costs of preparing or implementing comprehensive nutrient management plans.

(b) The commission shall make the grants described in Subsection (1)(a) from funds appropriated by the Legislature for that purpose.

(2) (a) In awarding grants, the commission shall consider the following criteria:

(i) the ability of the grantee to pay for costs of plans or projects to improve manure management or control surface water runoff;

(ii) the availability of:

(A) matching funds provided by the grantee or another source; or

(B) material, labor, or other items of value provided in lieu of money by the grantee or another source; and

(iii) the benefits that accrue to the general public by the awarding of a grant.

(b) The commission may establish by rule additional criteria for the awarding of grants.

(3) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

Section 2. Section **4-20-3** is amended to read:

4-20-3. Rangeland Improvement Account distribution.

(1) The department shall distribute restricted account money as provided in this section.

(a) The department shall:

(i) distribute pro rata to each school district the money received by the state under Subsection 4-20-2(1)(b)(i) from the sale or lease of public lands based upon the amount of revenue generated from the sale or lease of public lands within the district; and

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

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

(ii) The regional board shall expend money received in accordance with Subsection (2).

(c) (i) The department shall distribute or expend money received by the state under Subsections 4-20-2(1)(b)(ii) [~~through (iv)~~] and (iii) for the purposes outlined in Subsection (2).

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

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

(a) range improvement and maintenance;

(b) the control of predatory and depredating animals;

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

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

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

(f) the general welfare of livestock grazing within a grazing district; and

(g) subject to Subsection (3), costs to monitor rangeland improvement projects.

(3) Annual account distributions or expenditures for the monitoring costs described in Subsection (2)(g) may not exceed 10% of the annual receipts of the fund.

Section 3. Section **4-32-11** is amended to read:

4-32-11. Preparation and slaughter of livestock, poultry, or livestock and poultry products -- Adulterated or misbranded products -- Violation of rule or order.

(1) An animal or meat or poultry product that may be used for human consumption shall not be:

(a) slaughtered or prepared unless it is done in compliance with this chapter's requirements;

(b) sold, transported, offered for sale or transportation, or received for transportation, if it is adulterated or misbranded, unless it has been inspected and approved; or

(c) subjected to any act while being transported or held for sale after transportation resulting in one of the products becoming adulterated or being misbranded.

(2) A person may not violate any rule or order of the commissioner under Subsection 4-32-7(3) or (6), or Subsection 4-32-8(3), (5), or (7)[~~, or (14)~~].

Section 4. Section **4-37-202** is amended to read:

4-37-202. Acquisition of aquatic animals for use in aquaculture facilities.

(1) Live aquatic animals intended for use in aquaculture facilities may be purchased or acquired only from:

(a) aquaculture facilities within the state that have a certificate of registration and health approval number;

(b) public aquaculture facilities within the state that have a health approval number; or

(c) sources outside the state that are health approved as provided in Part 5, Health Approval.

(2) A person holding a certificate of registration for an aquaculture facility shall submit annually to the department a record of each purchase of live aquatic animals and transfer of live aquatic animals into the facility. This record shall include the following information:

(a) name, address, and health approval number of the source;

(b) date of transaction; and

(c) number and weight by species.

(3) The records required by Subsection (2) shall be submitted to the department before a certificate of registration is renewed or a subsequent certificate of registration is issued.

Section 5. Section **4-37-302** is amended to read:

4-37-302. Acquisition of aquatic animals for use in fee fishing facilities.

(1) Live aquatic animals intended for use in fee fishing facilities may be purchased or acquired only from:

(a) aquaculture facilities within the state that have a certificate of registration and health approval number;

(b) public aquaculture facilities within the state that have a health approval number; or

(c) sources outside the state that are health approved pursuant to Part 5, Health Approval.

(2) (a) A person holding a certificate of registration for a fee fishing facility shall submit to the department an annual report of all live fish purchased or acquired.

(b) The report shall contain the following information:

(i) name, address, and certificate of registration number of the seller or supplier;

(ii) number and weight by species;

(iii) date of purchase or transfer; and

(iv) name, address, and certificate of registration number of the receiver.

(c) The report shall be submitted to the department before a certificate of registration is renewed or subsequent certificate of registration is issued.

Section 6. Section **4-39-401** is amended to read:

4-39-401. Escape of domesticated elk -- Liability.

(1) It is the owner's responsibility to try to capture any domesticated elk that may have escaped.

(2) The escape of a domesticated elk shall be reported immediately to the state

veterinarian or a brand inspector of the Department of Agriculture who shall notify the Division of Wildlife Resources.

(3) If the domesticated elk is not recovered within 72 hours of the escape, the Department of Agriculture, in conjunction with the Division of Wildlife Resources, shall take whatever action is necessary to resolve the problem.

(4) The owner shall reimburse the state or a state agency for any reasonable recapture costs that may be incurred in the recapture or destruction of the animal.

(5) Any escaped domesticated elk taken by a licensed hunter in a manner which complies with the provisions of Title 23, Wildlife Resources Code of Utah, and the rules of the Wildlife Board shall be considered to be a legal taking and neither the licensed hunter, the state, nor a state agency shall be liable to the owner for the killing.

(6) The owner shall be responsible to contain the domesticated elk to ensure that there is no spread of disease from domesticated elk to wild elk and that the genetic purity of wild elk is protected.

Section 7. Section **7-1-103** is amended to read:

7-1-103. Definitions.

As used in this title:

(1) (a) "Bank" means a person authorized under the laws of this state, another state, or the United States to accept deposits from the public.

(b) "Bank" does not include:

(i) a federal savings and loan association or federal savings bank;

(ii) an industrial bank subject to Chapter 8, Industrial Banks;

(iii) a federally chartered credit union; or

(iv) a credit union subject to Chapter 9, Utah Credit Union Act.

(2) "Banking business" means the offering of deposit accounts to the public and the conduct of such other business activities as may be authorized by this title.

(3) (a) "Branch" means a place of business of a financial institution, other than its main office, at which deposits are received and paid.

(b) "Branch" does not include:

(i) an automated teller machine, as defined in Section 7-16a-102;

(ii) a point-of-sale terminal, as defined in Section 7-16a-102; or

(iii) a loan production office under Section 7-1-715.

(4) "Commissioner" means the Commissioner of Financial Institutions.

(5) "Control" means the power, directly or indirectly, to:

(a) direct or exercise a controlling influence over:

(i) the management or policies of a financial institution; or

(ii) the election of a majority of the directors or trustees of an institution;

(b) vote 20% or more of any class of voting securities of a financial institution by an individual; or

(c) vote more than 10% of any class of voting securities of a financial institution by a person other than an individual.

(6) "Credit union" means a cooperative, nonprofit association incorporated under:

(a) Chapter 9, Utah Credit Union Act; or

(b) 12 U.S.C. Sec. 1751 et seq., Federal Credit Union Act, as amended.

(7) "Department" means the Department of Financial Institutions.

(8) "Depository institution" means a bank, savings and loan association, savings bank, industrial bank, credit union, or other institution that:

(a) holds or receives deposits, savings, or share accounts;

(b) issues certificates of deposit; or

(c) provides to its customers other depository accounts that are subject to withdrawal by checks, drafts, or other instruments or by electronic means to effect third party payments.

(9) (a) "Depository institution holding company" means:

(i) a person other than an individual that:

(A) has control over any depository institution; or

(B) becomes a holding company of a depository institution under Section 7-1-703; or

(ii) a person other than an individual that the commissioner finds, after considering the specific circumstances, is exercising or is capable of exercising a controlling influence over a depository institution by means other than those specifically described in this section.

(b) Except as provided in Section 7-1-703, a person is not a depository institution holding company solely because it owns or controls shares acquired in securing or collecting a debt previously contracted in good faith.

(10) "Financial institution" means any institution subject to the jurisdiction of the

department because of this title.

(11) (a) "Financial institution holding company" means a person, other than an individual that has control over any financial institution or any person that becomes a financial institution holding company under this chapter, including an out-of-state or foreign depository institution holding company.

(b) Ownership of a service corporation or service organization by a depository institution does not make that institution a financial institution holding company.

(c) A person holding 10% or less of the voting securities of a financial institution is rebuttably presumed not to have control of the institution.

(d) A trust company is not a holding company solely because it owns or holds 20% or more of the voting securities of a financial institution in a fiduciary capacity, unless the trust company exercises a controlling influence over the management or policies of the financial institution.

(12) "Foreign depository institution" means a depository institution chartered or authorized to transact business by a foreign government.

(13) "Foreign depository institution holding company" means the holding company of a foreign depository institution.

(14) "Home state" means:

(a) for a state chartered depository institution, the state that charters the institution;

(b) for a federally chartered depository institution, the state where the institution's main office is located; and

(c) for a depository institution holding company, the state in which the total deposits of all depository institution subsidiaries are the largest.

(15) "Host state" means:

(a) for a depository institution, a state, other than the institution's home state, where the institution maintains or seeks to establish a branch; and

(b) for a depository institution holding company, a state, other than the depository institution holding company's home state, where the depository institution holding company controls or seeks to control a depository institution subsidiary.

(16) "Industrial bank" means a corporation or limited liability company conducting the business of an industrial bank under Chapter 8, Industrial Banks.

(17) "Industrial loan company" is as defined in Section 7-8-21.

(18) "Insolvent" means the status of a financial institution that is unable to meet its obligations as they mature.

(19) "Institution" means:

(a) a corporation;

(b) a limited liability company;

(c) a partnership;

(d) a trust;

(e) an association;

(f) a joint venture;

(g) a pool;

(h) a syndicate;

(i) an unincorporated organization; or

(j) any form of business entity.

(20) "Institution subject to the jurisdiction of the department" means an institution or other person described in Section 7-1-501.

(21) "Liquidation" means the act or process of winding up the affairs of an institution subject to the jurisdiction of the department by realizing upon assets, paying liabilities, and appropriating profit or loss, as provided in [~~Chapters 2 and 19~~] Chapter 2, Possession of Depository Institution by Commissioner, and Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies.

(22) "Liquidator" means a person, agency, or instrumentality of this state or the United States appointed to conduct a liquidation.

(23) (a) "Money services business" includes:

(i) a check casher;

(ii) a deferred deposit lender;

(iii) an issuer or seller of traveler's checks or money orders; and

(iv) a money transmitter.

(b) "Money services business" does not include:

(i) a bank;

(ii) a person registered with, and functionally regulated or examined by the Securities

Exchange Commission or the Commodity Futures Trading Commission, or a foreign financial agency that engages in financial activities that, if conducted in the United States, would require the foreign financial agency to be registered with the Securities Exchange Commission or the Commodity Futures Trading Commission; or

(iii) an individual who engages in an activity described in Subsection (23)(a) on an infrequent basis and not for gain or profit.

(24) "Negotiable order of withdrawal" means a draft drawn on a NOW account.

(25) (a) "NOW account" means a savings account from which the owner may make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties.

(b) A "NOW account" is not a demand deposit.

(c) Neither the owner of a NOW account nor any third party holder of an instrument requesting withdrawal from the account has a legal right to make withdrawal on demand.

(26) "Out-of-state" means, in reference to a depository institution or depository institution holding company, an institution or company whose home state is not Utah.

(27) "Person" means:

(a) an individual;

(b) a corporation;

(c) a limited liability company;

(d) a partnership;

(e) a trust;

(f) an association;

(g) a joint venture;

(h) a pool;

(i) a syndicate;

(j) a sole proprietorship;

(k) an unincorporated organization; or

(l) any form of business entity.

(28) "Receiver" means a person, agency, or instrumentality of this state or the United States appointed to administer and manage an institution subject to the jurisdiction of the department in receivership, as provided in [~~Chapters 2 and 19~~] Chapter 2, Possession of

Depository Institution by Commissioner, and Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies.

(29) "Receivership" means the administration and management of the affairs of an institution subject to the jurisdiction of the department to conserve, preserve, and properly dispose of the assets, liabilities, and revenues of an institution in possession, as provided in [~~Chapters 2 and 19~~] Chapter 2, Possession of Depository Institution by Commissioner, and Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies.

(30) "Savings account" means any deposit or other account at a depository institution that is not a transaction account.

(31) "Savings and loan association" means:

(a) a federal savings and loan association; and

(b) an out-of-state savings and loan association.

(32) "Service corporation" or "service organization" means a corporation or other business entity owned or controlled by one or more financial institutions that is engaged or proposes to engage in business activities related to the business of financial institutions.

(33) "State" means, unless the context demands otherwise:

(a) a state;

(b) the District of Columbia; or

(c) the territories of the United States.

(34) "Subsidiary" means a business entity under the control of an institution.

(35) (a) "Transaction account" means a deposit, account, or other contractual arrangement in which a depositor, account holder, or other customer is permitted, directly or indirectly, to make withdrawals by:

(i) check or other negotiable or transferable instrument;

(ii) payment order of withdrawal;

(iii) telephone transfer;

(iv) other electronic means; or

(v) any other means or device for the purpose of making payments or transfers to third persons.

(b) "Transaction account" includes:

(i) demand deposits;

(ii) NOW accounts;

(iii) savings deposits subject to automatic transfers; and

(iv) share draft accounts.

(36) "Trust company" means a person authorized to conduct a trust business, as provided in Chapter 5, Trust Business.

(37) "Utah depository institution" means a depository institution whose home state is Utah.

(38) "Utah depository institution holding company" means a depository institution holding company whose home state is Utah.

Section 8. Section **7-1-403** is amended to read:

7-1-403. Funds and balances paid to treasurer -- Separate account -- Use of funds.

Unexpended balances and all funds accruing to the department shall be deposited by the commissioner with the state treasurer monthly and constitute a separate account within the General Fund. No part of the account may revert to the General Fund except an amount as required by law to be transferred for general government and administrative costs. With the approval of the director of the Division of Finance, the commissioner may withdraw sums from the account to pay costs and expenses of administration incurred in proceedings under Title 7, [~~Chapters 1, 2, and 19~~] Chapter 1, General Provisions, Chapter 2, Possession of Depository Institution by Commissioner, and Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, or to use in connection with the rehabilitation, reorganization, or liquidation of an institution under the jurisdiction of the department.

Section 9. Section **7-1-616** is amended to read:

7-1-616. Authority to accept transaction accounts -- Payment of instruments.

(1) A financial institution may accept or advertise that it accepts transaction accounts only if authorized to do so under federal or state law. An institution may submit a written request for this authority to the commissioner, except that an institution authorized to accept transaction accounts as of June 1, 1994, does not, in the first instance, need to request or be granted any additional authority. The commissioner shall grant the authority if the commissioner finds that:

(a) the institution has adequate capital and reserves in relation to the character and

condition of its assets and its deposit and other liabilities;

(b) the deposits and other accounts held by the institution are insured or guaranteed by an agency of the federal government; and

(c) the management of the institution is qualified to handle transaction accounts.

(2) The commissioner may revoke, limit, or condition an institution's authority to accept and handle transaction accounts upon a finding that:

(a) the institution no longer meets the criteria set forth in Subsection (1); or

(b) it would be contrary to the public interest and the soundness of the financial system of this state to allow the institution to continue to accept or handle transaction accounts without limitation or condition.

(3) One or more depository institutions may, by written agreement, vary the terms of Title 70A, [~~Chapters 3 and 4~~] Chapter 3, Uniform Commercial Code - Negotiable Instruments, and Chapter 4, Uniform Commercial Code - Bank Deposits and Collections, for the purposes of facilitating the transfer, exchange, and prompt payment of instruments drawn on transaction accounts.

Section 10. Section **7-1-703** is amended to read:

7-1-703. Restrictions on acquisition of institutions and holding companies -- Enforcement.

(1) Unless the commissioner gives prior written approval under Section 7-1-705, no person may:

(a) acquire, directly or indirectly, control of a depository institution or depository institution holding company subject to the jurisdiction of the department;

(b) vote the stock of any depository institution or depository institution holding company subject to the jurisdiction of the department acquired in violation of Section 7-1-705;

(c) acquire all or any portion of the assets of a depository institution or a depository institution holding company subject to the jurisdiction of the department;

(d) assume all or any portion of the deposit liabilities of a depository institution subject to the jurisdiction of the department;

(e) take any action that causes a depository institution to become a subsidiary of a depository institution holding company subject to the jurisdiction of the department;

(f) take any action that causes a person other than an individual to become a depository

institution holding company subject to the jurisdiction of the department;

(g) acquire, directly or indirectly, the voting or nonvoting securities of a depository institution or a depository institution holding company subject to the jurisdiction of the department if the acquisition would result in the person obtaining more than 20% of the authorized voting securities of the institution if the nonvoting securities were converted into voting securities; or

(h) merge or consolidate with a depository institution or depository institution holding company subject to the jurisdiction of the department.

(2) Any person who willfully violates any provision of this section or any rule or order issued by the department under this section is subject to a civil penalty of not more than $1,000 per day during which the violation continues. The commissioner may assess the civil penalty after giving notice and opportunity for hearing. The commissioner shall collect the civil penalty by bringing an action in the district court of the county in which the office of the commissioner is located. Any applicant for approval of an acquisition is considered to have consented to the jurisdiction and venue of the court by filing an application for approval.

(3) The commissioner may secure injunctive relief to prevent any change in control or impending violation of this section.

(4) The commissioner may lengthen or shorten any time period specified in Section 7-1-705 if the commissioner finds it necessary to protect the public interest.

(5) The commissioner may exempt any class of financial institutions from this section by rule if the commissioner finds the exception to be in the public interest.

(6) The prior approval of the commissioner under Section 7-1-705 is not required for the acquisition by a person other than an individual of voting securities or assets of a depository institution or a depository institution holding company that are acquired by foreclosure or otherwise in the ordinary course of collecting a debt previously contracted in good faith if these voting securities or assets are divested within two years of acquisition. The commissioner may, upon application, extend the two-year period of divestiture for up to three additional one-year periods if, in the commissioner's judgment, the extension would not be detrimental to the public interest. The commissioner may adopt rules to implement the intent of this Subsection (6).

(7) (a) An out-of-state depository institution without a branch in Utah, or an

out-of-state depository institution holding company without a depository institution in Utah, may acquire:

(i) a Utah depository institution only if it has been in existence for at least five years; or

(ii) a Utah branch of a depository institution only if the branch has been in existence for at least five years.

(b) For purposes of Subsection (7)(a), a depository institution chartered solely for the purpose of acquiring another depository institution is considered to have been in existence for the same period as the depository institution to be acquired, so long as it does not open for business at any time before the acquisition.

(c) The commissioner may waive the restriction in Subsection (7)(a) in the case of a depository institution that is subject to, or is in danger of becoming subject to, supervisory action under Chapter 2, Possession of Depository Institution by Commissioner, or Chapter 19, Acquisitions of Failing Repository Institutions or Holding Companies, or, if applicable, the equivalent provisions of federal law or the law of the institution's home state.

(d) The restriction in Subsection (7)(a) does not apply to an acquisition of, or merger transaction between, affiliate depository institutions.

Section 11. Section **7-1-710** is amended to read:

7-1-710. "Agency" defined -- Purposes and establishment of agency.

(1) As used in this section, "agency" means a place, person, or facility, stationary or mobile, other than the home office or a branch office[.]:

(a) where functions of the financial institution not involving the receiving or paying of deposits, making of loans or the handling of cash may be performed[.];

(b) established for individual transactions and for special temporary purposes[.];

(c) established for the purposes set forth in Sections 7-1-608 and 7-1-609[.]; or

(d) established to perform the functions of a financial institution service corporation.

(2) A financial institution may establish one or more agencies without the prior written approval of the commissioner. Within 30 days of the establishment of an agency, the financial institution shall inform the commissioner in writing of the address of the agency and the specific functions for which it was established.

(3) No agency may be converted to a branch without compliance with Section 7-1-708.

Section 12. Section **7-1-802** is amended to read:

7-1-802. Confidentiality of information received by department -- Availability of information.

(1) The commissioner shall receive and place on file in the department's office all reports required by law and shall certify all reports required to be published.

(2) Except as provided in this section, the following are confidential, not public records, and not open to public inspection:

(a) all reports received or prepared by the department;

(b) all information obtained from an institution or person under the jurisdiction of the department; and

(c) all orders and related records of the department.

(3) The following records and information are public and are open to public inspection:

(a) reports of condition required by Section 7-1-318;

(b) information that is otherwise generally available to the public; and

(c) information contained in, and final decisions on, an application filed under Sections 7-1-702, 7-1-703, 7-1-704, 7-1-705, 7-1-706, 7-1-708, 7-1-709, 7-1-712, 7-1-713, or Chapter 19, Acquisitions of Failing Repository Institutions or Holding Companies, excluding:

(i) proprietary information, business plans, and personal financial information; and

(ii) information for which:

(A) the applicant requests confidentiality; and

(B) the commissioner grants the request for confidentiality.

(4) The department may disclose records and information that are not public to the following:

(a) to an agency or authority:

(i) that regulates:

(A) the subject of the record; or

(B) an affiliate of the subject of the record, as defined by the commissioner by rule; and

(ii) is of:

(A) the federal government;

(B) the state; or

(C) another state;

(b) to a federal deposit insurance agency;

(c) to an official legally authorized to investigate criminal charges in connection with the affairs of the subject of the record, and to any tribunal conducting legal proceedings resulting from such an investigation;

(d) to a person preparing a proposal for merging or acquiring an institution under [~~Chapter 2 or 19~~] Chapter 2, Possession of Depository Institution by Commissioner, or Chapter 19, Acquisition of Failing Repository Institutions or Holding Companies, but only after the department provides notice of the disclosure to the institution;

(e) to any other person, if the commissioner determines, after notice to the institution or person that is the subject of the record and opportunity for hearing, that the interests favoring disclosure of the information outweigh the interests favoring confidentiality of the information; and

(f) to any court in a proceeding under:

(i) Sections 7-1-304, 7-1-320, 7-1-322; or

(ii) a supervisory action under [~~Chapter 2 or 19~~] Chapter 2, Possession of Depository Institution by Commissioner, or Chapter 19, Acquisition of Failing Repository Institutions or Holding Companies.

(5) The commissioner may limit the use and further disclosure of any information disclosed under Subsection (4):

(a) to protect the business confidentiality interest of the subject of the record; and

(b) to protect the public interest, such as to avoid:

(i) a liquidity crisis in a depository institution; or

(ii) undue speculation in securities or currency markets.

(6) The department shall disclose information in the manner and to the extent directed by a court order signed by a judge from a court of competent jurisdiction if:

(a) the disclosure does not violate applicable federal or state law;

(b) the information to be disclosed deals with a matter in controversy over which the court has jurisdiction;

(c) the person requesting the order has provided reasonable prior written notice to the commissioner;

(d) the court has considered the merits of the request for disclosure and has determined that the interests favoring disclosure of the information outweigh the interests favoring

confidentiality of the information; and

(e) the court has appropriately limited the use and further disclosure of the information:

(i) to protect the business confidentiality interest of the subject of the record; and

(ii) to protect the public interest, such as to avoid:

(A) a liquidity crisis in a depository institution; or

(B) undue speculation in securities or currency markets.

Section 13. Section **7-2-1** is amended to read:

7-2-1. Supervisory actions by commissioner -- Grounds -- Mergers or acquisitions authorized by commissioner -- Possession of business and property taken by commissioner.

(1) An institution under the jurisdiction of the department is subject to supervisory actions by the commissioner under this chapter or Chapter 19, Acquisition of Failing Repository Institutions or Holding Companies, if the commissioner, with or without an administrative hearing, finds that:

(a) the institution is not in a safe and sound condition to transact its business;

(b) an officer of the institution or other person has refused to be examined or has made false statements under oath regarding its affairs;

(c) the institution or other person has violated its articles of incorporation or any law, rule, or regulation governing the institution or other person;

(d) the institution or other person is conducting its business in an unauthorized or unsafe manner, or is practicing deception upon its depositors, members, or the public, or is engaging in conduct injurious to its depositors, members, or the public;

(e) the institution or other person has been notified by its primary account insurer of the insurer's intention to initiate proceedings to terminate insurance;

(f) the institution or other person has failed to maintain a minimum amount of capital as required by the department, any state, or the relevant federal regulatory agency;

(g) the institution or other person is a depository institution that has failed or refused to pay its depositors in accordance with the terms under which the deposits were received, or has or is about to become insolvent;

(h) the institution or other person or its officers or directors have failed or refused to comply with the terms of a legally authorized order issued by the commissioner or by any

federal authority or authority of another state having jurisdiction over the institution or other person;

(i) the institution or other person or its officers or directors have failed or refused, upon proper demand, to submit its records, books, papers, and affairs for inspection to the commissioner or to a supervisor or an examiner of the department;

(j) the institution or other person or its officers or directors, after 30 days written notice, have failed to comply with or have continued to violate this title or any rule or regulation of the department issued under it;

(k) any person who controls the institution or other person subject to the jurisdiction of the department has used the control to cause the institution or other person to be or about to be in an unsafe or unsound condition, to conduct its business in an unauthorized or unsafe manner, or to violate this title or any rule or regulation of the department issued under it; or

(l) the remedies provided in Section 7-1-307, 7-1-308, or 7-1-313 are ineffective or impracticable to protect the interest of depositors, creditors, or members of the institution or other person, or to protect the interests of the public.

(2) The commissioner may take any action described in Subsection (3) if:

(a) he finds that:

(i) any of the conditions set forth in Subsection (1) exist with respect to an institution under the jurisdiction of the department; and

(ii) an order issued pursuant to Section 7-1-307, 7-1-308, or 7-1-313 would not adequately protect the interests of the institution's depositors, creditors, members, or other interested persons from all dangers presented by the conditions found to exist; or

(b) two-thirds of the voting shares of an institution under the jurisdiction of the department that are eligible to be voted at any regular or special meeting of the shareholders of the institution are voted at the meeting in favor of a resolution consenting to the commissioner taking or causing to be taken any of the actions described below.

(3) After making the requisite findings or receiving the consenting vote of shareholders under Subsection (2), the commissioner may:

(a) without taking possession of the institution, authorize, or by order require or give effect to the acquisition of control of, the merger with, the acquisition of all or a portion of the assets of, or the assumption of all or a portion of the liabilities of the institution or other person

by any other institution or entity approved or designated by the commissioner in accordance with Chapter 19, Acquisition of Failing Repository Institutions or Holding Companies; or

(b) take possession of the institution or other person subject to the jurisdiction of the department with or without a court order if an acquisition of control of, a merger with, an acquisition of all or a portion of the assets of, or an assumption of all or a portion of the liabilities of the institution or other person without taking possession does not appear to the commissioner to be practicable.

(4) Upon taking possession of an institution or the person, the commissioner is vested by operation of law with the title to and the right to possession of all assets, the business, and property of the institution or other person subject to court order made under Section 7-2-3. While in possession of an institution or other person, the commissioner or any receiver or liquidator appointed by him may exercise any or all of the rights, powers, and authorities granted to the commissioner under this chapter, or may give effect to the acquisition of control of, the merger with, the acquisition of all or a portion of the assets of, or the assumption of all or a portion of the liabilities of an institution or other person subject to the jurisdiction of the department, under the provisions of Chapter 19, Acquisition of Failing Repository Institutions or Holding Companies.

(5) An action of the commissioner under this section may only be enjoined or set aside upon a finding, after notice and hearing, that the action is arbitrary, capricious, an abuse of discretion, or otherwise contrary to law.

Section 14. Section **7-2-2** is amended to read:

7-2-2. Jurisdiction of district court -- Supervision of actions of commissioner in possession -- Authority of commissioner and court.

(1) The district court for the county in which the principal office of the institution or other person is situated has jurisdiction in the liquidation or reorganization of the institution or other person of which the commissioner has taken possession under this chapter or Chapter 19, Acquisition of Failing Repository Institutions or Holding Companies. As used in this chapter, "court" means the court given jurisdiction by this provision.

(2) Before taking possession of an institution or other person under his jurisdiction, or within a reasonable time after taking possession of an institution or other person without court order, as provided in this chapter, the commissioner shall cause to be commenced in the

appropriate district court, an action to provide the court supervisory jurisdiction to review the actions of the commissioner.

(3) The actions of the commissioner are subject to review of the court. The court has jurisdiction to hear all objections to the actions of the commissioner and may rule upon all motions and actions coming before it. Standing to seek review of any action of the commissioner or any receiver or liquidator appointed by him is limited to persons whose rights, claims, or interests in the institution would be adversely affected by the action.

(4) The authority of the commissioner under this chapter is of an administrative and not judicial receivership. The court may not overrule a determination or decision of the commissioner if it is not arbitrary, capricious, fraudulent, or contrary to law. If the court overrules an action of the commissioner, the matter shall be remanded to the commissioner for a new determination by him, and the new determination shall be subject to court review.

Section 15. Section **7-2-12** is amended to read:

7-2-12. Powers of commissioner in possession -- Sale of assets -- Postpossession financing -- New deposit instruments -- Executory contracts -- Transfer of property -- Avoidance of transfers -- Avoidable preferences -- Setoff.

(1) Upon taking possession of the institution, the commissioner may do all things necessary to preserve its assets and business, and shall rehabilitate, reorganize, or liquidate the affairs of the institution in a manner he determines to be in the best interests of the institution's depositors and creditors. Any such determination by the commissioner may not be overruled by a reviewing court unless it is found to be arbitrary, capricious, fraudulent, or contrary to law. In the event of a liquidation, he shall collect all debts due and claims belonging to it, and may compromise all bad or doubtful debts. He may sell, upon terms he may determine, any or all of the property of the institution for cash or other consideration. The commissioner shall give such notice as the court may direct to the institution of the time and place of hearing upon an application to the court for approval of the sale. The commissioner shall execute and deliver to the purchaser of any property of the institution sold by him those deeds or instruments necessary to evidence the passing of title.

(2) With approval of the court and upon terms and with priority determined by the court, the commissioner may borrow money and issue evidence of indebtedness. To secure repayment of the indebtedness, he may mortgage, pledge, transfer in trust, or hypothecate any

or all of the property of the institution superior to any charge on the property for expenses of the proceeding as provided in Section 7-2-14. These loans may be obtained for the purpose of facilitating liquidation, protecting or preserving the assets in the charge of the commissioner, expediting the making of distributions to depositors and other claimants, aiding in the reopening or reorganization of the institution or its merger or consolidation with another institution, or the sale of all of its assets. Neither the commissioner nor any special deputy or other person lawfully in charge of the affairs of the institution is under any personal obligation to repay those loans. The commissioner may take any action necessary or proper to consummate the loan and to provide for its repayment and to give bond when required for the faithful performance of all undertakings in connection with it. The commissioner or special deputy shall make application to the court for approval of any loan proposed under this section. Notice of hearing upon the application shall be given as the court directs. At the hearing upon the application any stockholder or shareholder of the institution or any depositor or other creditor of the institution may appear and be heard on the application. Prior to the obtaining of a court order, the commissioner or special deputy in charge of the affairs of the institution may make application or negotiate for the loan or loans subject to the obtaining of the court order.

(3) With the approval of the court pursuant to a plan of reorganization or liquidation under Section 7-2-18, the commissioner may provide for depositors to receive new deposit instruments from a depository institution that purchases or receives some or all of the assets of the institution in the possession of the commissioner. All new deposit instruments issued by the acquiring depository institution may, in accordance with the terms of the plan of reorganization or liquidation, be subject to different amounts, terms, and interest rates than the original deposit instruments of the institution in the possession of the commissioner. All deposit instruments issued by the acquiring institution shall be considered new deposit obligations of the acquiring institution. The original deposit instruments issued by the institution in the possession of the commissioner are not liabilities of the acquiring institution, unless assumed by the acquiring institution. Unpaid claims of depositors against the institution in the possession of the commissioner continue, and may be provided for in the plan of reorganization or liquidation.

(4) The commissioner, after taking possession of any institution or other person subject to the jurisdiction of the department, may terminate any executory contract, including standby

letters of credit, unexpired leases and unexpired employment contracts, to which the institution or other person is a party. If the termination of an executory contract or unexpired lease constitutes a breach of the contract or lease, the date of the breach is the date on which the commissioner took possession of the institution. Claims for damages for breach of an executory contract shall be filed within 30 days of receipt of notice of the termination, and if allowed, shall be paid in the same manner as all other allowable claims of the same priority out of the assets of the institution available to pay claims.

(5) With approval of the court and upon a showing by the commissioner that it is in the best interests of the depositors and creditors, the commissioner may transfer property on account of an indebtedness incurred by the institution prior to the date of the taking.

(6) (a) The commissioner may avoid any transfer of any interest of the institution in property or any obligation incurred by the institution that is void or voidable by a creditor under Title 25, Chapter 6, Uniform Fraudulent Transfer Act.

(b) The commissioner may avoid any transfer of any interest in real property of the institution that is void as against or voidable by a subsequent purchaser in good faith and for a valuable consideration of the same real property or any portion thereof who has duly recorded his conveyance at the time possession of the institution is taken, whether or not such a purchaser exists.

(c) The commissioner may avoid any transfer of any interest in property of the institution or any obligation incurred by the institution that is invalid or void as against, or is voidable by a creditor that extends credit to the institution at the time possession of the institution is taken by the commissioner, and that obtains, at such time and with respect to such credit, a judgment lien or a lien by attachment, levy, execution, garnishment, or other judicial lien on the property involved, whether or not such a creditor exists.

(d) The right of the commissioner under Subsections (6)(b) and (c) to avoid any transfer of any interest in property of the institution shall be unaffected by and without regard to any knowledge of the commissioner or of any creditor of the institution.

(e) "Transfer" means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, or disposing of or parting with property or with an interest in property, including retention of title as a security interest.

(f) The commissioner may avoid and recover any payment or other transfer of any

interest in property of the institution to or for the benefit of a creditor, for or on account of an antecedent debt owed by the institution before the transfer was made if the creditor at the time of such transfer had reasonable cause to believe that the institution was insolvent, and if the payment or other transfer will allow the creditor to obtain a greater percentage of his debt than he would be entitled to under the provisions of Section 7-2-15. For the purposes of this subsection:

(i) antecedent debt does not include earned wages and salaries and other operating expenses incurred and paid in the normal course of business;

(ii) a transfer of any interest in real property is deemed to have been made or suffered when it became so far perfected that a subsequent good faith purchaser of the property from the institution for a valuable consideration could not acquire an interest superior to the transferee; and

(iii) a transfer of property other than real property is deemed to have been made or suffered when it became so far perfected that a creditor on a simple contract could not acquire a lien by attachment, levy, execution, garnishment, or other judicial lien superior to the interest of the transferee.

(g) For purposes of this section, "date of possession" means the earlier of the date the commissioner takes possession of a financial institution under Title 7, Chapter 2, Possession of Depository Institution by Commissioner, or the date when the commissioner enters an order suspending payments to depositors and other creditors under Section 7-2-19.

(7) (a) With or without the prior approval of the court, the commissioner or any federal deposit insurance agency appointed by him as receiver or liquidator of a depository institution closed by the commissioner under the provisions of this chapter may setoff against the deposits or other liabilities of the institution any debts or other obligations of the depositor or claimant due and owing to the institution. The amount of any setoff against the liabilities of the institution shall be no greater than the amount the depositor or claimant would receive pursuant to Section 7-2-15 after final liquidation of the institution. When the liquidation value of a depositor's or claimant's claim against the institution will or may be less than the full amount of the claim, setoff may be made prior to final liquidation if the commissioner or any receiver or liquidator appointed by him can reasonably estimate the liquidation value of the claim, and the court, after notice and opportunity for hearing, approves the estimate for purposes of making

the setoff. If the right of setoff is exercised, the commissioner or any receiver or liquidator appointed by him shall give written notice to the depositor or claimant of the amount setoff.

(b) The existence and amount of a debtor or creditor relationship or both, between the institution and its depositor or claimant and the right to the proceeds in a deposit account shall be determined solely by the books and records of the institution.

(c) Any contract purporting to affect the right of setoff shall be in writing and signed by the depositor-debtor and an authorized officer of the institution and be maintained as a part of the records of the institution.

(d) Any claim that a deposit account is a special account not subject to setoff because it was maintained for a specific purpose or to satisfy a particular obligation other than satisfaction of or as security for an indebtedness to the institution or that the right to the deposit actually belongs to a third party does not affect the right to setoff of the commissioner or any receiver or liquidator appointed by him unless the special nature of the account is clearly shown in the books and records of the institution.

(e) In the absence of any other instrument in writing, the terms and provisions of the signature card applicable to a particular account in effect at the time the commissioner takes possession of the institution shall be determinative of the right of setoff by the commissioner or any receiver or liquidator appointed by him.

(f) Knowledge of the institution or of any director, officer, or employee of the institution that the nature of the account is other than as shown in the books and records of the institution does not affect the right of setoff by the commissioner or any receiver or liquidator appointed by him.

(g) The liability of the commissioner or any receiver or liquidator appointed by him for exercising a right of setoff other than as authorized by this section shall be only to a person who establishes by the procedure set forth in Section 7-2-6 that his interest in the account is superior to that of the person whose debt to the institution was setoff against the account. The amount of any such liability shall be no greater than the amount of the setoff and neither the commissioner or any receiver or liquidator appointed by him shall be liable for any action taken under this section unless the action taken is determined by the court to be arbitrary or capricious.

Section 16. Section **7-3-1** is amended to read:

7-3-1. Application of chapter.

This chapter applies to all banks organized under the laws of this state, to all other banks doing business in this state as permitted by the laws and Constitution of the United States, and to all persons conducting banking business in this state except as provided in Chapter 1, General Provisions.

Section 17. Section **7-5-2** is amended to read:

7-5-2. Permit required to engage in trust business -- Exceptions.

(1) No trust company shall accept any appointment to act in any agency or fiduciary capacity, including that of personal representative, executor, administrator, conservator, guardian, assignee, receiver, depositary, or trustee under order or judgment of any court or by authority of any law of this state or as trustee for any purpose permitted by law or otherwise engage in the trust business in this state, unless and until it has obtained from the commissioner a permit to act under this chapter. This provision does not apply to any bank or other corporation authorized to engage and lawfully engaged in the trust business in this state before July 1, 1981.

(2) Nothing in this chapter prohibits:

(a) any corporation organized under Title 16, Chapter 6a [~~or 10a~~], Utah Revised Nonprofit Corporation Act, or Chapter 10a, Utah Revised Business Corporation Act, from acting as trustee of any employee benefit trust established for the employees of the corporation or the employees of one or more other corporations affiliated with the corporation;

(b) any corporation organized under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, and owned or controlled by a charitable, benevolent, eleemosynary, or religious organization from acting as a trustee for that organization or members of that organization but not offering trust services to the general public;

(c) any corporation organized under Title 16, Chapter 6a [~~or 10a~~], Utah Revised Nonprofit Corporation Act, or Chapter 10a, Utah Revised Business Corporation Act, from holding in a fiduciary capacity the controlling shares of another corporation but not offering trust services to the general public; or

(d) any depository institution from holding in an agency or fiduciary capacity individual retirement accounts or Keogh plan accounts established under Section 401(a) or 408(a) of Title 26 of the United States Code.

Section 18. Section **7-5-6** is amended to read:

7-5-6. Confidentiality of communications and writings concerning trust -- Actions to protect property or authorized under probate laws not precluded.

Any trust company exercising the powers and performing the duties described in this chapter shall keep inviolate all communications and writings made to or by that trust company relating to the existence, condition, management or administration of any agency or fiduciary account confided to it and no creditor or stockholder of any such trust company shall be entitled to disclosure or knowledge of any such communication or writing, except that the directors, president, vice president, manager, treasurer, and trust officers, and any employees assigned to work on the trust business, and the attorney or auditor employed by it shall be entitled to knowledge of any such communication or writing and except that in any suit or proceeding relating to the existence, condition, management or administration of the account, the court in which the suit is pending may require disclosure of any such communication or writing. A trust company is not, however, precluded from filing an action in court to protect trust account property or as authorized under Title 75, Utah Uniform Probate Code.

Section 19. Section **7-5-7** is amended to read:

7-5-7. Management and investment of trust funds.

(1) Funds received or held by any trust company as agent or fiduciary, whether for investment or distribution, shall be invested or distributed as soon as practicable as authorized under the instrument creating the account and may not be held uninvested any longer than is reasonably necessary.

(2) If the instrument creating an agency or fiduciary account contains provisions authorizing the trust company, its officers, or its directors to exercise their discretion in the matter of investments, funds held in the trust account under that instrument may be invested only in those classes of securities which are approved by the directors of the trust company or a committee of directors appointed for that purpose. If a trust company acts in any agency or fiduciary capacity under appointment by a court of competent jurisdiction, it shall make and account for all investments according to the provisions of Title 75, Utah Uniform Probate Code, unless the underlying instrument provides otherwise.

(3) (a) Funds received or held as agent or fiduciary by any trust company which is also a depository institution, whether for investment or distribution, may be deposited in the

commercial department or savings department of that trust company to the credit of its trust department. Whenever the funds so deposited in a fiduciary or managing agency account exceed the amount of federal deposit insurance applicable to that account, the trust company shall deliver to the trust department or put under its control collateral security as outlined in Regulation 9.10 of the Comptroller of the Currency or in Regulation 550.8 of the Office of Thrift Supervision, as amended. However, if the instrument creating such a fiduciary or managing agency account expressly provides that funds may be deposited to the commercial or savings department of the trust company, then the funds may be so deposited without setting aside collateral securities as required under this section and the deposits in the event of insolvency of any such trust company shall be treated as other general deposits are treated. A trust company which deposits trust funds in its commercial or savings department shall be liable for interest on the deposits only at the rates, if any, paid by the trust company on deposits of like kind not made to the credit of its trust department.

(b) Funds received or held as agent or fiduciary by a trust company, whether for investment or distribution, may be deposited in an affiliated depository institution. Whenever the funds so deposited in a fiduciary or managing agency account exceed the amount of federal deposit insurance applicable to that account, the depository institution shall deliver to the trust company or put under its control collateral security as outlined in Regulation 9.10 of the Comptroller of the Currency or in Regulation 550.8 of the Office of Thrift Supervision as amended. However, if the instrument creating the fiduciary or managing agency account expressly permits funds to be deposited in the affiliated depository institution, the funds may be so deposited without setting aside collateral securities as required under this section and deposits in the event of insolvency of the depository institution shall be treated as other general deposits are treated. A trust company which deposits trust funds in an affiliated depository institution is liable for interest on the deposits only at the rates, if any, paid by the depository institution on deposits of like kind.

(4) In carrying out all aspects of its trust business, a trust company shall have all the powers, privileges, and duties as set forth in Sections 75-7-813 and 75-7-814 with respect to trustees, whether or not the trust company is acting as a trustee as defined in Title 75, Utah Uniform Probate Code.

(5) Nothing in this section may alter, amend, or limit the powers of a trust company

acting in a fiduciary capacity as specified in the particular instrument or order creating the fiduciary relationship.

Section 20. Section **7-5-8** is amended to read:

7-5-8. Segregation of trust assets -- Books and records required -- Examination -- Trust property not subject to claims or debts against trust company.

A trust company exercising the powers to act as an agent or fiduciary under this chapter shall segregate all assets held in any agency or fiduciary capacity from the general assets of the company and shall keep a separate set of books and records showing in proper detail all transactions engaged in under authority of this chapter. These books and records shall be open to inspection by the commissioner and shall be examined by him or by examiners appointed by him as provided in Chapter 1, General Provisions, or examined by other appropriate regulating agencies or both. Property held in an agency or fiduciary capacity by a trust company is not subject to claims or debts against the trust company.

Section 21. Section **7-5-11** is amended to read:

7-5-11. Self-dealing with trust property -- Own stock as trust property -- Policies for dealing with trust securities.

(1) Except as provided in Section 7-5-7, in Title 75, Utah Uniform Probate Code, or as authorized under the instrument creating the relationship, a trust company may not invest funds held as an agent or fiduciary in stock or obligations of, or with such funds acquire property from, the trust company or any of its directors, officers or employees, nor shall a trust company sell property held as an agent or fiduciary to the company or to any of its directors, officers, or employees.

(2) A trust company may retain and vote stock of the trust company or of any of its affiliates received by it as assets of any trust account or in any other fiduciary relationship of which it is appointed agent or fiduciary, unless the instrument creating the relationship otherwise provides.

(3) Every trust company shall adopt written policies and procedures regarding decisions or recommendations to purchase or sell any security to facilitate compliance with federal and state securities laws. These policies and procedures, in particular, shall prohibit the trust company from using material inside information in connection with any decision or recommendation to purchase or sell any security.

Section 22. Section **7-5-15** is amended to read:

7-5-15. Assets of trust company in possession of the commissioner.

With respect to a trust company in the possession of the commissioner under Chapter 2, Possession of Depository Institution by Commissioner, notwithstanding any law to the contrary, the assets held by the trust company in a fiduciary capacity as a part of its trust business, as defined in Section 7-5-1, are not subject to the claims of any secured or unsecured creditor of the trust company.

Section 23. Section **7-9-25** is amended to read:

7-9-25. Shares -- Number unlimited -- Subscription and payment -- Par value -- Ownership required for membership -- Dormant accounts.

(1) The capital of the credit union shall be unlimited in amount.

(2) Shares of the credit union may be subscribed and paid for in cash or its equivalent in a manner prescribed in the bylaws.

(3) The par value of each share of a credit union shall be determined by the board of directors in multiples of $5 as prescribed in the bylaws.

(4) Each member of the credit union shall subscribe to at least one share and pay the initial installment thereon. The par value of the share shall be paid for within six months.

(5) The board of directors may close a member's account when the share par value is not paid within the required period or the par value is not maintained. Notice in writing shall be mailed to the member at the last known address and shall contain a statement that the member may increase payment or voluntarily close the account within 60 days of receipt of the notice.

(6) When a member's account becomes dormant or is reasonably presumed to be dormant and abandoned, as provided in Chapter 1, General Provisions, the credit union by resolution of the board of directors may close the account and transfer the credits of the account to an account for unclaimed shares. Thereafter the credit union may not pay dividends or interest on the account, as provided in the bylaws, until the funds in the account escheat to the state of Utah. Prior to transferring the member's dormant and abandoned account to the credit union unclaimed shares account, the credit union shall mail a written notice to the member at the member's last known address stating that this action will be taken within 30 days of the date of the notice.

Section 24. Section **7-9-39.5** is amended to read:

7-9-39.5. Supervisory merger.

If a credit union is merged with another credit union as a result of a supervisory action under [~~Chapter 2 or 19~~] Chapter 2, Possession of Depository Institution by Commissioner, or Chapter 19, Acquisition of Failing Repository Institutions or Holding Companies, the commissioner may permit the surviving credit union to have a field of membership that is larger than a field of membership permitted under Section 7-9-51.

Section 25. Section **7-9-42** is amended to read:

7-9-42. Record requirements.

(1) A credit union shall maintain all books, records, accounting systems, and procedures in accordance with rules the commissioner may prescribe or in accordance with Chapter 1, General Provisions.

(2) In prescribing these rules, the commissioner shall consider the size of a credit union and its ability to comply.

(3) A credit union is not liable for destroying records after the expiration of the record retention time prescribed by the rules.

(4) A photostatic or photographic reproduction of any credit union records shall be admissible as evidence of transactions with the credit union.

Section 26. Section **7-9-45** is amended to read:

7-9-45. Insurance of shares and deposits -- Security on shares and deposits.

(1) Except as provided in Subsection (2), a credit union subject to the jurisdiction of the department shall obtain and maintain insurance on shares and deposits from the National Credit Union Administration or successor federal deposit insurance agency.

(2) Notwithstanding Subsection 7-1-704(7)(a)(v) and Subsection (1), a credit union may not be required to obtain federal insurance on shares and deposits if:

(a) the commissioner approves the credit union's election not to obtain federal insurance on shares and deposits;

(b) as security for the shares and deposits, the credit union maintains securities:

(i) that are issued by or directly and unconditionally guaranteed by:

(A) the United States; or

(B) an agency of the United States;

(ii) that are held in an account with a primary reporting dealer that is:

(A) recognized by the Federal Reserve Bank of New York; and

(B) independent of the credit union;

(iii) that are held in accordance with Title 70A, Chapter 8, Uniform Commercial Code - Investment Securities; and

(iv) in which the department has an express and exclusive security interest; and

(c) the aggregate value of the securities described in Subsection (2)(b) is at all times equal to or greater than 1.15 times the aggregate amount of the shares and deposits of the credit union.

(3) The commissioner may appoint the administrator of the National Credit Union Administration as liquidating agent of an insured credit union.

(4) Failure to comply with this section constitutes grounds for supervisory action under [~~Chapter 2 or 19~~] Chapter 2, Possession of Depository Institution by Commissioner, or Chapter 19, Acquisition of Failing Repository Institutions or Holding Companies.

Section 27. Section **7-9-55** is amended to read:

7-9-55. Nonexempt credit unions.

(1) (a) A credit union organized under this chapter is a nonexempt credit union under this section on the day on which:

(i) on or after May 5, 2003 the credit union has a field of membership as evidenced by the bylaws of the credit union that includes all residents of two or more counties; and

(ii) at least two of the counties described in Subsection (1)(a)(i) are counties of the first or second class as classified by Section 17-50-501.

(b) For purposes of Subsection (1)(a) only:

(i) residents of a county that are added to the field of membership of a credit union as a result of a supervisory action under [~~Chapter 2 or 19~~] Chapter 2, Possession of Depository Institution by Commissioner, or Chapter 19, Acquisition of Failing Repository Institutions or Holding Companies, are not considered to be within the field of membership of that credit union; and

(ii) residents of a city of the third, fourth, or fifth class or a town that are added to the field of membership of a credit union in accordance with Section 7-9-52 are not considered to be within the field of membership of that credit union unless all residents of the county in which that city or town are located are included in the field of membership of the credit union.

(2) If a credit union becomes a nonexempt credit union under this section, the nonexempt credit union is a nonexempt credit union:

(a) for as long as the nonexempt credit union is organized under this chapter; and

(b) notwithstanding whether after the day on which the nonexempt credit union becomes a nonexempt credit union the nonexempt credit union meets the requirements of Subsection (1)(a).

(3) Regardless of whether or not a credit union has located branches in two or more counties in this state, a credit union organized under this chapter does not become a nonexempt credit union if the field of membership of the credit union as evidenced by the bylaws of the credit union does not meet the requirements of Subsection (1).

Section 28. Section **7-9-58** is amended to read:

7-9-58. Limitations on credit extended by nonexempt credit unions.

(1) (a) Notwithstanding the other provisions of this chapter, beginning on May 5, 2003, a nonexempt credit union may not:

(i) (A) extend a member-business loan;

(B) renew a member-business loan that is extended before May 5, 2003; or

(C) extend the maturity date or increase the amount of a member-business loan that is extended before May 5, 2003;

(ii) originate, participate in, or obtain any interest in a co-lending arrangement, including a loan participation arrangement; or

(iii) subject to Subsection (2), extend credit that is not a member-business loan if as a result of the extension of credit the total credit that is not a member-business loan that the nonexempt credit union has issued to that member exceeds at any one time $250,000 adjusted as provided in Subsection (1)(b).

(b) The adjustment described in Subsection (1)(a)(iii) shall be calculated by the commissioner as follows:

(i) beginning July 1, 2008 and for a calendar year beginning on or after January 1, 2009, the commissioner shall increase or decrease the dollar amount in Subsection (1)(a)(iii) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2007;

(ii) after the commissioner increases the dollar amount listed in Subsection [~~(1)(c)~~]

(1)(a)(iii), the commissioner shall round the dollar amount to the nearest whole dollar;

(iii) if the percentage difference under Subsection (1)(b)(i) is zero or a negative percentage, the consumer price index increase for the year is zero; and

(iv) for purposes of this Subsection (1)(b), the commissioner shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(2) Notwithstanding Subsection (1)(a)(iii), a nonexempt credit union may extend credit in an amount that exceeds the limits provided in Subsection (1)(a)(iii) to a member if:

(a) the excess portion of the credit described in Subsection (1)(a)(iii) is fully secured by the member's share or deposit savings in the nonexempt credit union; or

(b) the credit is extended to a member of the nonexempt credit union:

(i) for the purpose of:

(A) paying amounts owed by the member to purchase a one- to four-family dwelling that is the primary residence of that member; or

(B) refinancing the balance of amounts owed by the member for the purchase of a one- to four-family dwelling that is the primary residence of that member; and

(ii) the credit extended under this Subsection (2)(b) is less than or equals $1,000,000.

(3) In accordance with Subsection 7-9-20(7)(d), a credit union service organization may not extend credit to a member of a nonexempt credit union holding an ownership interest in the credit union service organization if it would be a violation of this section for the nonexempt credit union to extend the credit to the member.

(4) This section may not prevent a nonexempt credit union from servicing a loan extended before May 5, 2003.

Section 29. Section **7-14-1** is amended to read:

7-14-1. Definitions.

As used in this chapter:

[~~(2)~~] (1) "Credit reporting agency" includes any co-operative credit reporting agency maintained by an association of financial institutions or one or more associations of merchants.

[~~(1)~~] (2) "Depository institution" means any institution authorized by state or federal law to accept and hold demand deposits or other accounts which may be used to effect third party payment transactions. The definition of "depository institution" in Chapter 1, General Provisions, does not apply to Chapter 14, Credit Information Exchange.

Section 30. Section **7-19-1** is amended to read:

7-19-1. Definitions.

As used in this chapter:

(1) "Failing or failed depository institution" means a depository institution under the jurisdiction of the department:

(a) regarding which the commissioner makes a finding that any of the conditions set forth in Subsections 7-2-1(1)(a) through (k) exist;

(b) that meets the requirements of Subsection 7-2-1(1)(l);

(c) whose shareholders have consented to a supervisory action by the commissioner pursuant to Subsection 7-2-1(2); or

(d) which is in the possession of the commissioner, or any receiver or liquidator appointed by the commissioner, pursuant to Chapter 2, Possession of Depository Institution by Commissioner.

(2) "Failing or failed depository institution holding company" means a depository institution holding company under the jurisdiction of the department:

(a) regarding which the commissioner makes a finding that any of the conditions set forth in Subsections 7-2-1(1)(a) through (k) exist;

(b) that meets the requirements of Subsection 7-2-1(1)(l);

(c) whose shareholders have consented to a supervisory action by the commissioner pursuant to Subsection 7-2-1(2);

(d) which is in the possession of the commissioner, or any receiver or liquidator appointed by the commissioner, pursuant to Chapter 2, Possession of Depository Institution by Commissioner; or

(e) whose subsidiary depository institution is a failing or failed depository institution.

(3) "Supervisory acquisition" means the acquisition of control, the acquisition of all or a portion of the assets, or the assumption of all or a portion of the liabilities, pursuant to Section 7-2-1, 7-2-12, or 7-2-18, of a failing or failed depository institution or a failing or failed depository institution holding company, whether or not in the possession of the commissioner, by:

(a) a Utah depository institution;

(b) an out-of-state depository institution;

(c) a Utah depository institution holding company; or

(d) an out-of-state depository institution holding company.

(4) "Supervisory merger" means the merger or consolidation, pursuant to Section 7-2-1, 7-2-12, or 7-2-18 of a failing or failed depository institution or a failing or failed depository institution holding company, whether or not in the possession of the commissioner, with:

(a) a Utah depository institution;

(b) an out-of-state depository institution;

(c) a Utah depository institution holding company; or

(d) an out-of-state depository institution holding company.

Section 31. Section **9-1-801** is amended to read:

Part 8. Utah Commission on Service and Volunteerism Act

9-1-801. Title.

This part is known as the "[~~Commission on National and Community Service Act~~] Utah Commission on Service and Volunteerism Act."

Section 32. Section **9-6-205** is amended to read:

9-6-205. Board powers and duties.

(1) The board may:

(a) make, amend, or repeal rules for the conduct of its business in governing the council in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) receive gifts, bequests, and property; and

(c) issue certificates and offer and confer prizes, certificates, and awards for works of art and achievement in the arts.

(2) The board shall make policy for the council.

(3) (a) By September 30 of each year, the board shall prepare and submit a request to the governor and the Legislature for prioritized capital facilities grants to be awarded to eligible individuals and organizations under this part [~~and Parts 3 through 5~~], Part 3, Utah Arts Council, Part 4, Utah Percentage-for-Art Act, and Part 5, State Arts Endowment.

(b) The board shall prepare a list of the requested capital facilities grants in a prioritized order and include a written explanation of:

(i) the total grant amount requested in the list; and

(ii) the basis of its prioritization of requested grants on the list.

(c) The board shall accept applications for capital facilities grants through June 1 of each year, prior to compiling and submitting its yearly request to the governor and the Legislature under Subsection (3)(a).

Section 33. Section **9-7-501** is amended to read:

9-7-501. Tax for establishment and maintenance of public library -- Library fund.

(1) A county legislative body may establish and maintain a public library.

(2) For this purpose, counties may levy annually a tax not to exceed .001 of taxable value of taxable property in the county, outside of cities which maintain their own city libraries as authorized by Part 4, City Libraries. The tax is in addition to all taxes levied by counties and is not limited by the levy limitation imposed on counties by law. However, if bonds are issued for purchasing a site, or constructing or furnishing a building, then taxes sufficient for the payment of the bonds and any interest may be levied.

(3) The taxes shall be levied and collected in the same manner as other general taxes of the county and shall constitute a fund to be known as the county library fund.

Section 34. Section **9-8-301** is amended to read:

9-8-301. Purpose.

(1) The Legislature declares that the general public and the beneficiaries of the school and institutional land grants have an interest in the preservation and protection of the state's archaeological and anthropological resources and a right to the knowledge derived and gained from scientific study of those resources.

(2) (a) The Legislature finds that policies and procedures for the survey and excavation of archaeological resources from school and institutional trust lands are consistent with the school and institutional land grants, if these policies and procedures insure that primary consideration is given, on a site or project specific basis, to the purpose of support for the beneficiaries of the school and institutional land grants.

(b) The Legislature finds that the preservation, placement in a repository, curation, and exhibition of specimens found on school or institutional trust lands for scientific and educational purposes is consistent with the school and institutional land grants.

(c) The Legislature finds that the preservation and development of sites found on

school or institutional trust lands for scientific or educational purposes, or the disposition of sites found on school or institutional trust lands, after consultation between the division and the School and Institutional Trust Lands Administration to determine the appropriate level of data recovery or implementation of other appropriate preservation measures, for preservation, development, or economic purposes, is consistent with the school and institutional land grants.

(d) The Legislature declares that specimens found on lands owned or controlled by the state or its subdivisions may not be sold.

(3) The Legislature declares that the historical preservation purposes of this chapter must be kept in balance with the other uses of land and natural resources which benefit the health and welfare of the state's citizens.

(4) It is the purpose of this part and Part 4, Historic Sites, to provide that the survey, excavation, curation, study, and exhibition of the state's archaeological and anthropological resources be undertaken in a coordinated, professional, and organized manner for the general welfare of the public and beneficiaries alike.

Section 35. Section **9-8-307** is amended to read:

9-8-307. Report of discovery on state or private lands.

(1) Any person who discovers any archaeological resources on lands owned or controlled by the state or its subdivisions shall promptly report the discovery to the division.

(2) Any person who discovers any archaeological resources on privately owned lands shall promptly report the discovery to the division.

(3) Field investigations shall be discouraged except in accordance with this part and Part 4, Historic Sites.

(4) Nothing in this section may be construed to authorize any person to survey or excavate for archaeological resources.

Section 36. Section **9-8-405** is amended to read:

9-8-405. Federal funds -- Agreements on standards and procedures.

By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the division may accept and administer federal funds provided under the provisions of the National Historic Preservation Act of 1966, the Land and Water Conservation Act as amended, and subsequent legislation directed toward the encouragement of historic preservation, and to enter into those agreements on professional standards and procedures

required by participation in the National Historic Preservation Act of 1966 and the National Register Office.

Section 37. Section **10-1-114** is amended to read:

10-1-114. Repealer.

Title 10, [~~Chapters 1, 2, 3, 5, and 6~~] Chapter 1, General Provisions; Chapter 2, Incorporation, Classification, Boundaries, Consolidation, and Dissolution of Municipalities; Chapter 3, Municipal Government; Chapter 5, Uniform Fiscal Procedures Act for Utah Towns; and Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, are repealed, except as provided in Section 10-1-115.

Section 38. Section **10-1-119** is amended to read:

10-1-119. Inventory of competitive activities.

(1) As used in this section:

(a) "Applicable city" means:

(i) on and after July 1, 2009, a city of the first class; and

(ii) on and after July 1, 2010, a city of the first or second class.

(b) "Competitive activity" means an activity engaged in by a city or an entity created by the city by which the city or an entity created by the city provides a good or service that is substantially similar to a good or service that is provided by a person:

(i) who is not an entity of the federal government, state government, or a political subdivision of the state; and

(ii) within the boundary of the county in which the city is located.

(c) (i) Subject to Subsection (1)(c)(ii), "entity created by the city" includes:

(A) an entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, in which the city participates; and

(B) a special service district created under Title 17D, Chapter 1, Special Service District Act.

(ii) "Entity created by the city" does not include a local district created by a city under Title 17B, Limited Purpose Local Government Entities - Local Districts.

(2) (a) The governing body of an applicable city shall create an inventory of activities of the city or an entity created by the city to:

(i) classify whether an activity is a competitive activity; and

(ii) identify efforts that have been made to privatize aspects of the activity.

(b) An applicable city shall comply with this section by no later than:

(i) June 30, 2010, if the applicable city is a city of the first class; and

(ii) June 30, 2011, if the applicable city is a city of the second class.

(3) The governing body of an applicable city shall update the inventory created under this section at least every two years.

(4) An applicable city shall:

(a) provide a copy of the inventory and an update to the inventory to the Free Market Protection and Privatization Board created in Title 63I, Chapter 4a[~~, Free Market Protection and Privatization Board Act~~]; and

(b) make the inventory available to the public through electronic means.

Section 39. Section **10-1-203** is amended to read:

10-1-203. License fees and taxes -- Application information to be transmitted to the county assessor.

(1) As used in this section:

(a) "Business" means any enterprise carried on for the purpose of gain or economic profit, except that the acts of employees rendering services to employers are not included in this definition.

(b) "Telecommunications provider" is as defined in Section 10-1-402.

(c) "Telecommunications tax or fee" is as defined in Section 10-1-402.

(2) Except as provided in Subsections (3) through (5), the legislative body of a municipality may license for the purpose of regulation and revenue any business within the limits of the municipality and may regulate that business by ordinance.

(3) (a) The legislative body of a municipality may raise revenue by levying and collecting a municipal energy sales or use tax as provided in Part 3, Municipal Energy Sales and Use Tax Act, except a municipality may not levy or collect a franchise tax or fee on an energy supplier other than the municipal energy sales and use tax provided in Part 3, Municipal Energy Sales and Use Tax Act.

(b) (i) Subsection (3)(a) does not affect the validity of a franchise agreement as defined in Subsection 10-1-303(6), that is in effect on July 1, 1997, or a future franchise.

(ii) A franchise agreement as defined in Subsection 10-1-303(6) in effect on January 1,

1997, or a future franchise shall remain in full force and effect.

(c) A municipality that collects a contractual franchise fee pursuant to a franchise agreement as defined in Subsection 10-1-303(6) with an energy supplier that is in effect on July 1, 1997, may continue to collect that fee as provided in Subsection 10-1-310(2).

(d) (i) Subject to the requirements of Subsection (3)(d)(ii), a franchise agreement as defined in Subsection 10-1-303(6) between a municipality and an energy supplier may contain a provision that:

(A) requires the energy supplier by agreement to pay a contractual franchise fee that is otherwise prohibited under Part 3, Municipal Energy Sales and Use Tax Act; and

(B) imposes the contractual franchise fee on or after the day on which Part 3, Municipal Energy Sales and Use Tax Act is:

(I) repealed, invalidated, or the maximum allowable rate provided in Section 10-1-305 is reduced; and

(II) is not superseded by a law imposing a substantially equivalent tax.

(ii) A municipality may not charge a contractual franchise fee under the provisions permitted by Subsection (3)(b)(i) unless the municipality charges an equal contractual franchise fee or a tax on all energy suppliers.

(4) (a) Subject to Subsection (4)(b), beginning July 1, 2004, the legislative body of a municipality may raise revenue by levying and providing for the collection of a municipal telecommunications license tax as provided in Part 4, Municipal Telecommunications License Tax Act.

(b) A municipality may not levy or collect a telecommunications tax or fee on a telecommunications provider except as provided in Part 4, Municipal Telecommunications License Tax Act.

(5) (a) (i) The legislative body of a municipality may by ordinance raise revenue by levying and collecting a license fee or tax on:

(A) a parking service business in an amount that is less than or equal to:

(I) $1 per vehicle that parks at the parking service business; or

(II) 2% of the gross receipts of the parking service business;

(B) a public assembly or other related facility in an amount that is less than or equal to $5 per ticket purchased from the public assembly or other related facility; and

(C) subject to the limitations of Subsections (5)(c) and (d):

(I) a business that causes disproportionate costs of municipal services; or

(II) a purchaser from a business for which the municipality provides an enhanced level of municipal services.

(ii) Nothing in this Subsection (5)(a) may be construed to authorize a municipality to levy or collect a license fee or tax on a public assembly or other related facility owned and operated by another political subdivision other than a community development and renewal agency without the written consent of the other political subdivision.

(b) As used in this Subsection (5):

(i) "Municipal services" includes:

(A) public utilities; and

(B) services for:

(I) police;

(II) fire;

(III) storm water runoff;

(IV) traffic control;

(V) parking;

(VI) transportation;

(VII) beautification; or

(VIII) snow removal.

(ii) "Parking service business" means a business:

(A) that primarily provides off-street parking services for a public facility that is wholly or partially funded by public money;

(B) that provides parking for one or more vehicles; and

(C) that charges a fee for parking.

(iii) "Public assembly or other related facility" means an assembly facility that:

(A) is wholly or partially funded by public money;

(B) is operated by a business; and

(C) requires a person attending an event at the assembly facility to purchase a ticket.

(c) (i) Before the legislative body of a municipality imposes a license fee on a business that causes disproportionate costs of municipal services under Subsection (5)(a)(i)(C)(I), the

legislative body of the municipality shall adopt an ordinance defining for purposes of the tax under Subsection (5)(a)(i)(C)(I):

(A) the costs that constitute disproportionate costs; and

(B) the amounts that are reasonably related to the costs of the municipal services provided by the municipality.

(ii) The amount of a fee under Subsection (5)(a)(i)(C)(I) shall be reasonably related to the costs of the municipal services provided by the municipality.

(d) (i) Before the legislative body of a municipality imposes a license fee on a purchaser from a business for which it provides an enhanced level of municipal services under Subsection (5)(a)(i)(C)(II), the legislative body of the municipality shall adopt an ordinance defining for purposes of the fee under Subsection (5)(a)(i)(C)(II):

(A) the level of municipal services that constitutes the basic level of municipal services in the municipality; and

(B) the amounts that are reasonably related to the costs of providing an enhanced level of municipal services in the municipality.

(ii) The amount of a fee under Subsection (5)(a)(i)(C)(II) shall be reasonably related to the costs of providing an enhanced level of the municipal services.

(6) All license fees and taxes shall be uniform in respect to the class upon which they are imposed.

(7) The municipality shall transmit the information from each approved business license application to the county assessor within 60 days following the approval of the application.

(8) If challenged in court, an ordinance enacted by a municipality before January 1, 1994, imposing a business license fee on rental dwellings under this section shall be upheld unless the business license fee is found to impose an unreasonable burden on the fee payer.

Section 40. Section **10-2-125** is amended to read:

10-2-125. Incorporation of a town -- Petition.

(1) As used in this section:

(a) "Assessed value," with respect to agricultural land, means the value at which the land would be assessed without regard to a valuation for agricultural use under Section 59-2-503.

(b) "Financial feasibility study" means a study described in Subsection [~~(8)~~] (7).

(c) "Feasibility consultant" means a person or firm:

(i) with expertise in the processes and economics of local government; and

(ii) who is independent of and not affiliated with a county or sponsor of a petition to incorporate.

(d) "Municipal service" means a publicly provided service that is not provided on a countywide basis.

(e) "Nonurban" means having a residential density of less than one unit per acre.

(2) (a) (i) A contiguous area of a county not within a municipality, with a population of at least 100 but less than 1,000, may incorporate as a town as provided in this section.

(ii) An area within a county of the first class is not contiguous for purposes of Subsection (2)(a)(i) if:

(A) the area includes a strip of land that connects geographically separate areas; and

(B) the distance between the geographically separate areas is greater than the average width of the strip of land connecting the geographically separate areas.

(b) The population figure under Subsection (2)(a) shall be determined:

(i) as of the date the incorporation petition is filed; and

(ii) by the Utah Population Estimates Committee within 20 days after the county clerk's certification under Subsection (6) of a petition filed under Subsection (4).

(3) (a) The process to incorporate an area as a town is initiated by filing a petition to incorporate the area as a town with the clerk of the county in which the area is located.

(b) A petition under Subsection (3)(a) shall:

(i) be signed by:

(A) the owners of private real property that:

(I) is located within the area proposed to be incorporated; and

(II) is equal in assessed value to more than 1/5 of the assessed value of all private real property within the area; and

(B) 1/5 of all registered voters within the area proposed to be incorporated as a town, according to the official voter registration list maintained by the county on the date the petition is filed;

(ii) designate as sponsors at least five of the property owners who have signed the

petition, one of whom shall be designated as the contact sponsor, with the mailing address of each owner signing as a sponsor;

(iii) be accompanied by and circulated with an accurate map or plat, prepared by a licensed surveyor, showing a legal description of the boundary of the proposed town; and

(iv) substantially comply with and be circulated in the following form:

PETITION FOR INCORPORATION OF (insert the proposed name of the proposed town)

To the Honorable County Legislative Body of (insert the name of the county in which the proposed town is located) County, Utah:

We, the undersigned owners of real property and registered voters within the area described in this petition, respectfully petition the county legislative body to submit to the registered voters residing within the area described in this petition, at the next regular general election, the question of whether the area should incorporate as a town. Each of the undersigned affirms that each has personally signed this petition and is an owner of real property or a registered voter residing within the described area, and that the current residence address of each is correctly written after the signer's name. The area proposed to be incorporated as a town is described as follows: (insert an accurate description of the area proposed to be incorporated).

(c) A petition under this Subsection (3) may not describe an area that includes some or all of an area proposed for annexation in an annexation petition under Section 10-2-403 that:

(i) was filed before the filing of the petition; and

(ii) is still pending on the date the petition is filed.

(d) A petition may not be filed under this section if the private real property owned by the petition sponsors, designated under Subsection (3)(b)(ii), cumulatively exceeds 40% of the total private land area within the area proposed to be incorporated as a town.

(e) A signer of a petition under this Subsection (3) may withdraw or, after withdrawn, reinstate the signer's signature on the petition:

(i) at any time until the county clerk certifies the petition under Subsection (5); and

(ii) by filing a signed, written withdrawal or reinstatement with the county clerk.

(4) (a) If a petition is filed under Subsection (3)(a) proposing to incorporate as a town an area located within a county of the first class, the county clerk shall deliver written notice of

the proposed incorporation:

(i) to each owner of private real property owning more than 1% of the assessed value of all private real property within the area proposed to be incorporated as a town; and

(ii) within seven calendar days after the date on which the petition is filed.

(b) A private real property owner described in Subsection (4)(a)(i) may exclude all or part of the owner's property from the area proposed to be incorporated as a town by filing a notice of exclusion:

(i) with the county clerk; and

(ii) within 10 calendar days after receiving the clerk's notice under Subsection (4)(a).

(c) The county legislative body shall exclude from the area proposed to be incorporated as a town the property identified in the notice of exclusion under Subsection (4)(b) if:

(i) the property:

(A) is nonurban; and

(B) does not and will not require a municipal service; and

(ii) exclusion will not leave an unincorporated island within the proposed town.

(d) If the county legislative body excludes property from the area proposed to be incorporated as a town, the county legislative body shall send written notice of the exclusion to the contact sponsor within five days after the exclusion.

(5) No later than 20 days after the filing of a petition under Subsection (3), the county clerk shall:

(a) with the assistance of other county officers from whom the clerk requests assistance, determine whether the petition complies with the requirements of Subsection (3); and

(b) (i) if the clerk determines that the petition complies with those requirements:

(A) certify the petition and deliver the certified petition to the county legislative body; and

(B) mail or deliver written notification of the certification to:

(I) the contact sponsor;

(II) if applicable, the chair of the planning commission of each township in which any part of the area proposed for incorporation is located; and

(III) the Utah Population Estimates Committee; or

(ii) if the clerk determines that the petition fails to comply with any of those requirements, reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

(6) (a) (i) A petition that is rejected under Subsection (5)(b)(ii) may be amended to correct a deficiency for which it was rejected and then refiled with the county clerk.

(ii) A valid signature on a petition filed under Subsection (3)(a) may be used toward fulfilling the signature requirement of Subsection (3)(b) for the same petition that is amended under Subsection (6)(a)(i) and then refiled with the county clerk.

(b) If a petition is amended and refiled under Subsection (6)(a)(i) after having been rejected by the county clerk under Subsection (5)(b)(ii):

(i) the amended petition shall be considered as a newly filed petition; and

(ii) the amended petition's processing priority is determined by the date on which it is refiled.

(7) (a) (i) The legislative body of a county with which a petition is filed under Subsection (4) and certified under Subsection (6) shall commission and pay for a financial feasibility study.

(ii) The feasibility consultant shall be chosen:

(A) (I) by the contact sponsor of the incorporation petition, as described in Subsection (3)(b)(ii), with the consent of the county; or

(II) by the county if the contact sponsor states, in writing, that the sponsor defers selection of the feasibility consultant to the county; and

(B) in accordance with applicable county procurement procedure.

(iii) The county legislative body shall require the feasibility consultant to complete the financial feasibility study and submit written results of the study to the county legislative body no later than 30 days after the feasibility consultant is engaged to conduct the financial feasibility study.

(b) The financial feasibility study shall consider the:

(i) population and population density within the area proposed for incorporation and the surrounding area;

(ii) current and five-year projections of demographics and economic base in the proposed town and surrounding area, including household size and income, commercial and

industrial development, and public facilities;

(iii) projected growth in the proposed town and in adjacent areas during the next five years;

(iv) subject to Subsection (7)(c), the present and five-year projections of the cost, including overhead, of governmental services in the proposed town, including:

(A) culinary water;

(B) secondary water;

(C) sewer;

(D) law enforcement;

(E) fire protection;

(F) roads and public works;

(G) garbage;

(H) weeds; and

(I) government offices;

(v) assuming the same tax categories and tax rates as currently imposed by the county and all other current service providers, the present and five-year projected revenue for the proposed town; and

(vi) a projection of any new taxes per household that may be levied within the incorporated area within five years of incorporation.

(c) (i) For purposes of Subsection (7)(b)(iv), the feasibility consultant shall assume a level and quality of governmental services to be provided to the proposed town in the future that fairly and reasonably approximate the level and quality of governmental services being provided to the proposed town at the time of the feasibility study.

(ii) In determining the present cost of a governmental service, the feasibility consultant shall consider:

(A) the amount it would cost the proposed town to provide governmental service for the first five years after incorporation; and

(B) the county's present and five-year projected cost of providing governmental service.

(iii) The costs calculated under Subsection (7)(b)(iv), shall take into account inflation and anticipated growth.

(d) If the five year projected revenues under Subsection (7)(b)(v) exceed the five-year projected costs under Subsection (7)(b)(iv) by more than 10%, the feasibility consultant shall project and report the expected annual revenue surplus to the contact sponsor and the lieutenant governor.

(e) The county legislative body shall approve a certified petition proposing the incorporation of a town and hold a public hearing as provided in Section 10-2-126.

Section 41. Section **10-2-126** is amended to read:

10-2-126. Incorporation of town -- Public hearing on feasibility.

(1) If, in accordance with Section 10-2-125, the county clerk certifies a petition for incorporation or an amended petition for incorporation, the county legislative body shall, at its next regular meeting after completion of the feasibility study, schedule a public hearing to:

(a) be held no later than 60 days after the day on which the feasibility study is completed; and

(b) consider, in accordance with Subsection (3)(b), the feasibility of incorporation for the proposed town.

(2) The county legislative body shall give notice of the public hearing on the proposed incorporation by:

(a) posting notice of the public hearing on the county's Internet website, if the county has an Internet website;

(b) (i) publishing notice of the public hearing at least once a week for two consecutive weeks in a newspaper of general circulation within the proposed town; or

(ii) if there is no newspaper of general circulation within the proposed town, posting notice of the public hearing in at least five conspicuous public places within the proposed town; and

(c) publishing notice of the public hearing on the Utah Public Notice Website created in Section 63F-1-701.

(3) At the public hearing scheduled in accordance with Subsection (1), the county legislative body shall:

(a) (i) provide a copy of the feasibility study; and

(ii) present the results of the feasibility study to the public; and

(b) allow the public to:

(i) review the map or plat of the boundary of the proposed town;

(ii) ask questions and become informed about the proposed incorporation; and

(iii) express its views about the proposed incorporation, including their views about the boundary of the area proposed to be incorporated.

(4) A county may not hold an election on the incorporation of a town in accordance with Section 10-2-127 if the results of the feasibility study show that the five-year projected revenues under Subsection 10-2-125(7)(b)(v) exceed the five-year projected costs under Subsection 10-2-125(7)(b)(iv) by more than 10%.

Section 42. Section **10-8-62** is amended to read:

10-8-62. Cemeteries -- Purchase and operation.

The city legislative body may:

(1) purchase, hold, and pay for lands within or without the corporate limits for the burial of the dead, and all necessary grounds for hospitals;

(2) have and exercise police jurisdiction over those lands, and over any cemetery used by the inhabitants of the city;

(3) survey, plat, map, fence, ornament, and otherwise improve, manage, and operate public burial and cemetery grounds;

(4) convey cemetery lots owned by the city, and pass ordinances for the protection and governing of these grounds consistent with Title 8, Chapter 5, [~~Municipal Cemeteries~~] Rights and Title to Cemetery Lots;

(5) contract for the care and improvement of cemeteries and cemetery lots, and for any compensation for the care and improvement;

(6) receive deposits for the care of lots and invest the deposits by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and

(7) pay the cost of the care from any proceeds from the investment.

Section 43. Section **10-8-63** is amended to read:

10-8-63. Burial of dead -- Vital statistics.

They may regulate the burial of the dead, consistent with Title 8, Chapter 5, [~~Municipal Cemeteries~~] Rights and Title to Cemetery Lots, the registration of births and deaths, direct the returning and keeping of bills of mortality, and impose penalties on physicians, sextons, and others for any default therein.

Section 44. Section **10-18-104** is amended to read:

10-18-104. Application to existing contracts.

(1) (a) If before the sooner of March 1 or the effective date of the chapter, the legislative body of a municipality authorized the municipality to offer or provide cable television services or public telecommunications services, each authorized service:

(i) is exempt from Part 2, Conditions for Providing Services; and

(ii) is subject to Part 3, Operational Requirements and Limitations.

(b) The exemption described in Subsection (1)(a)(i) may not apply to any cable television service or public telecommunications service authorized by the legislative body of a municipality on or after the sooner of March 1 or the effective date of this chapter.

(2) This chapter does not:

(a) invalidate any contract entered into by a municipality before the sooner of March 1 or the effective date of this chapter:

(i) for the design, construction, equipping, operation, or maintenance of facilities used or to be used by the municipality, or by a private provider under a contract with the municipality for the purpose of providing:

(A) cable television services; or

(B) public telecommunications services;

(ii) with a private provider for the use of the facilities described in Subsection (2)(a)(i) in connection with the private provider offering:

(A) cable television services; or

(B) public telecommunications services;

(iii) with a subscriber for providing:

(A) a cable television service; or

(B) a public telecommunications service; or

(iv) to obtain or secure financing for the acquisition or operation of the municipality's facilities or equipment used in connection with providing:

(A) a cable television service; or

(B) a public telecommunications service; or

(b) impair any security interest granted by a municipality as collateral for the municipality's obligations under a contract described in Subsection (2)(a).

(3) (a) A municipality meeting the one or more of the following conditions is exempt from this chapter as provided in Subsection (3)(b):

(i) a municipality that adopts or enacts a bond resolution on or before January 1, 2001, to fund facilities or equipment that the municipality uses to provide:

(A) cable television services; or

(B) public telecommunications services; or

(ii) a municipality that has operated for at least three years consecutively before the sooner of March 1 or the effective date of this chapter:

(A) a cable television service; or

(B) a public telecommunications service.

(b) A municipality described in Subsection (3)(a) is exempt from this chapter except for:

(i) Subsection 10-18-303(4);

(ii) Subsection 10-18-303(7);

(iii) Subsection 10-18-303(9);

(iv) Section 10-18-304; and

(v) Section 10-18-305.

(4) For the time period beginning on the effective date of this chapter and ending on December 31, 2001, a municipality that operated a cable television service as of January 1, 2001, is exempt from Subsection 10-18-301(1)(d).

Section 45. Section **11-13-303** is amended to read:

11-13-303. Source of project entity's payment of sales and use tax -- Gross receipts taxes for facilities providing additional project capacity.

(1) A project entity is not exempt from sales and use taxes under Title 59, Chapter 12, Sales and Use Tax Act, to the extent provided in Subsection 59-12-104(2).

(2) A project entity may make payments or prepayments of sales and use taxes, as provided in Title 63M, Chapter 5, Resource Development Act, from the proceeds of revenue bonds issued under Section 11-13-218 or other revenues of the project entity.

(3) (a) This Subsection (3) applies with respect to facilities providing additional project capacity.

(b) (i) The in lieu excise tax imposed under Title 59, Chapter 8, Gross Receipts Tax on

Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, shall be imposed collectively on all gross receipts derived with respect to the ownership interests of all project entities and other public agencies in facilities providing additional project capacity as though all such ownership interests were held by a single project entity.

(ii) The in lieu excise tax shall be calculated as though the gross receipts derived with respect to all such ownership interests were received by a single taxpayer that has no other gross receipts.

(iii) The gross receipts attributable to such ownership interests shall consist solely of gross receipts that are expended by each project entity and other public agency holding an ownership interest in the facilities for the operation or maintenance of or ordinary repairs or replacements to the facilities.

(iv) For purposes of calculating the in lieu excise tax, the determination of whether there is a tax rate and, if so, what the tax rate is shall be governed by Section 59-8-104, except that the $10,000,000 figures in Section 59-8-104 indicating the amount of gross receipts that determine the applicable tax rate shall be replaced with $5,000,000.

(c) Each project entity and public agency owning an interest in the facilities providing additional project capacity shall be liable only for the portion of the gross receipts tax referred to in Subsection (3)(b) that is proportionate to its percentage ownership interest in the facilities and may not be liable for any other gross receipts taxes with respect to its percentage ownership interest in the facilities.

(d) No project entity or other public agency that holds an ownership interest in the facilities may be subject to the taxes imposed under Title 59, Chapter 7, Corporate Franchise and Income Taxes, with respect to those facilities.

(4) For purposes of calculating the gross receipts tax imposed on a project entity or other public agency under Title 59, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Subsection (3), gross receipts include only gross receipts from the first sale of capacity, services, or other benefits and do not include gross receipts from any subsequent sale, resale, or layoff of the capacity, services, or other benefits.

Section 46. Section **11-13-315** is amended to read:

11-13-315. Taxed interlocal entity.

(1) As used in this section:

(a) "Asset" means funds, money, an account, real or personal property, or personnel.

(b) "Public asset" means:

(i) an asset used by a public entity;

(ii) tax revenue;

(iii) state funds; or

(iv) public funds.

(c) (i) "Taxed interlocal entity" means a project entity that:

(A) is not exempt from a tax or fee in lieu of taxes imposed in accordance with Part 3, Project Entity Provisions;

(B) does not receive a payment of funds from a federal agency or office, state agency or office, political subdivision, or other public agency or office other than a payment that does not materially exceed the greater of the fair market value and the cost of a service provided or property conveyed by the project entity; and

(C) does not receive, expend, or have the authority to compel payment from tax revenue.

(ii) Before and on May 1, 2014, "taxed interlocal entity" includes an interlocal entity that:

(A) (I) was created before 1981 for the purpose of providing power supply at wholesale to its members; or

(II) is described in Subsection 11-13-204(7);

(B) does not receive a payment of funds from a federal agency or office, state agency or office, political subdivision, or other public agency or office other than a payment that does not materially exceed the greater of the fair market value and the cost of a service provided or property conveyed by the interlocal entity; and

(C) does not receive, expend, or have the authority to compel payment from tax revenue.

(d) (i) "Use" means to use, own, manage, hold, keep safe, maintain, invest, deposit, administer, receive, expend, appropriate, disburse, or have custody.

(ii) "Use" includes, when constituting a noun, the corresponding nominal form of each term in Subsection (1)(d)(i), individually.

(2) Notwithstanding any other provision of law, the use of an asset by a taxed interlocal entity does not constitute the use of a public asset.

(3) Notwithstanding any other provision of law, a taxed interlocal entity's use of an asset that was a public asset prior to the taxed interlocal entity's use of the asset does not constitute a taxed interlocal entity's use of a public asset.

(4) Notwithstanding any other provision of law, an official of a project entity is not a public treasurer.

(5) Notwithstanding any other provision of law, a taxed interlocal entity's governing body, as described in Section 11-13-206, shall determine and direct the use of an asset by the taxed interlocal entity.

(6) (a) A taxed interlocal entity is not subject to the provisions of Title 63G, Chapter 6a, Utah Procurement Code.

(b) An agent of a taxed interlocal entity is not an external procurement unit as defined in Section 63G-6a-104.

(7) (a) A taxed interlocal entity is not a participating local entity as defined in Section 63A-3-401.

(b) For each fiscal year of a taxed interlocal entity, the taxed interlocal entity shall provide:

(i) the taxed interlocal entity's financial statements for and as of the end of the fiscal year and the prior fiscal year, including the taxed interlocal entity's balance sheet as of the end of the fiscal year and the prior fiscal year, and the related statements of revenues and expenses and of cash flows for the fiscal year; and

(ii) the accompanying auditor's report and management's discussion and analysis with respect to the taxed interlocal entity's financial statements for and as of the end of the fiscal year.

(c) The taxed interlocal entity shall provide the information described in Subsections (7)(b)(i) and [~~(b)~~] (ii):

(i) in a manner described in Subsection 63A-3-405(3); and

(ii) within a reasonable time after the taxed interlocal entity's independent auditor delivers to the taxed interlocal entity's governing body the auditor's report with respect to the financial statements for and as of the end of the fiscal year.

(d) Notwithstanding Subsections (7)(b) and (c) or a taxed interlocal entity's compliance with one or more of the requirements of Title 63A, Chapter 3, Division of Finance:

(i) the taxed interlocal entity is not subject to Title 63A, Chapter 3, Division of Finance; and

(ii) the information described in Subsection (7)(b)(i) or (ii) does not constitute public financial information as defined in Section 63A-3-401.

(8) (a) A taxed interlocal entity's governing body is not a governing board as defined in Section 51-2a-102.

(b) A taxed interlocal entity is not subject to the provisions of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Section 47. Section **11-14-301** is amended to read:

11-14-301. Issuance of bonds by governing body -- Computation of indebtedness under constitutional and statutory limitations.

(1) If the governing body has declared the bond proposition to have carried and no contest has been filed, or if a contest has been filed and favorably terminated, the governing body may proceed to issue the bonds voted at the election.

(2) (a) It is not necessary that all of the bonds be issued at one time, but, except as otherwise provided in this Subsection (2), bonds approved by the voters may not be issued more than 10 years after the day on which the election is held.

(b) The 10-year period described in Subsection (2)(a) is tolled if, at any time during the 10-year period:

(i) an application for a referendum petition is filed with a local clerk, in accordance with Section 20A-7-602 and Subsection 20A-7-601[~~(4)~~](3)(a), with respect to the local obligation law relating to the bonds; or

(ii) the bonds are challenged in a court of law or an administrative proceeding in relation to:

(A) the legality or validity of the bonds, or the election or proceedings authorizing the bonds;

(B) the authority of the local political subdivision to issue the bonds;

(C) the provisions made for the security or payment of the bonds; or

(D) any other issue that materially and adversely affects the marketability of the bonds, as determined by the individual or body that holds the executive powers of the local political subdivision.

(c) A tolling period described in Subsection (2)(b)(i) ends on the later of the day on which:

(i) the local clerk determines that the petition is insufficient, in accordance with Subsection 20A-7-607(2)(c), unless an application, described in Subsection 20A-7-607(4)(a), is made to the Supreme Court;

(ii) the Supreme Court determines, under Subsection 20A-7-607(4)(c), that the petition for the referendum is not legally sufficient; or

(iii) for a referendum petition that is sufficient, the governing body declares, as provided by law, the results of the referendum election on the local obligation law.

(d) A tolling period described in Subsection (2)(b)(ii) ends after:

(i) there is a final settlement, a final adjudication, or another type of final resolution of all challenges described in Subsection (2)(b)(ii); and

(ii) the individual or body that holds the executive powers of the local political subdivision issues a document indicating that all challenges described in Subsection (2)(b)(ii) are resolved and final.

(e) If the 10-year period described in Subsection (2)(a) is tolled under this Subsection (2) and, when the tolling ends and after giving effect to the tolling, the period of time remaining to issue the bonds is less than one year, the period of time remaining to issue the bonds shall be extended to one year.

(f) The tolling provisions described in this Subsection (2) apply to all bonds described in this section that were approved by voters on or after May 8, 2002.

(3) (a) Bonds approved by the voters may not be issued to an amount that will cause the indebtedness of the local political subdivision to exceed that permitted by the Utah Constitution or statutes.

(b) In computing the amount of indebtedness that may be incurred pursuant to constitutional and statutory limitations, the constitutionally or statutorily permitted percentage, as the case may be, shall be applied to the fair market value, as defined under Section 59-2-102, of the taxable property in the local political subdivision, as computed from the last applicable

equalized assessment roll before the incurring of the additional indebtedness.

(c) In determining the fair market value of the taxable property in the local political subdivision as provided in this section, the value of all tax equivalent property, as defined in Section 59-3-102, shall be included as a part of the total fair market value of taxable property in the local political subdivision, as provided in Title 59, Chapter 3, Tax Equivalent Property Act.

(4) Bonds of improvement districts issued in a manner that they are payable solely from the revenues to be derived from the operation of the facilities of the district may not be included as bonded indebtedness for the purposes of the computation.

(5) Where bonds are issued by a city, town, or county payable solely from revenues derived from the operation of revenue-producing facilities of the city, town, or county, or payable solely from a special fund into which are deposited excise taxes levied and collected by the city, town, or county, or excise taxes levied by the state and rebated pursuant to law to the city, town, or county, or any combination of those excise taxes, the bonds shall be included as bonded indebtedness of the city, town, or county only to the extent required by the Utah Constitution, and any bonds not so required to be included as bonded indebtedness of the city, town, or county need not be authorized at an election, except as otherwise provided by the Utah Constitution, the bonds being hereby expressly excluded from the election requirement of Section 11-14-201.

(6) A bond election is not void when the amount of bonds authorized at the election exceeded the limitation applicable to the local political subdivision at the time of holding the election, but the bonds may be issued from time to time in an amount within the applicable limitation at the time the bonds are issued.

Section 48. Section **11-17-14** is amended to read:

11-17-14. Uniform Commercial Code not applicable.

Bonds issued under this act are exempt from the provisions of [~~the~~] Title 70A, Uniform Commercial Code[~~, Title 70A~~].

Section 49. Section **11-32-4** is amended to read:

11-32-4. Assignment of rights to receive delinquent tax receivables to financing authority -- Documentation -- Agreement.

(1) At any time following the date of delinquency for property in Title 59, Chapter 2,

Part 13, Collection of Taxes, the governing body of any county desiring to implement the provisions of this chapter by assigning the delinquent tax receivables of the participant members to its authority shall ascertain the amount of delinquent taxes owed to the participant members within the county. After ascertaining the amount of delinquent tax receivables owed, the governing body of the county may, as agent for the other participant members, assign the rights of the participant members to receive the delinquent tax receivables, in whole or in part, as designated by the governing body of the county, to the financing authority. The assignment of rights described above shall take the form of an assignment of an account receivables. The purchase price paid by the authority may be equal to, greater than, or less than the amount of the delinquent tax receivables sold to the authority. The documentation by which the transfer of the delinquent tax receivables are made shall contain the following:

(a) the tax year or years for which the delinquent taxes owing were levied;

(b) the amount of taxes, interest, and penalties due to the participant members with respect to the tax years as of the date the accounts are assigned;

(c) the tax identification numbers or other descriptions of the specific properties with respect to which the delinquent tax receivables are being assigned;

(d) the interest rate at which the delinquent taxes subject to the assignment bear interest pursuant to Section 59-2-1331;

(e) the discount or premium, if any, at which the account is assigned;

(f) a certificate representing the transfer of the rights of the county and the other participant members to receive the amounts due and owing the county and the other participant members with respect to the delinquent tax receivables transferred; and

(g) certification by the governing body of the county that all amounts received by the county with respect to the delinquent taxes, interest, and penalties assigned to the authority and owed to the county and the other participant members, for the tax years specified, upon the specified property, and the additional interest and penalties to accrue on the delinquent amounts, shall be deposited upon receipt into a special fund of the county created for this purpose and shall be used solely to pay the amounts falling due to the financing authority as specified in the assignment agreement.

(2) The assignment agreement shall contain a statement to the effect that any amounts falling due under it are payable solely from a special fund into which the county shall pay the

amounts collected with respect to the delinquent tax receivables pledged and shall state that under no circumstances may the county or any of the other participant members be required to use any other funds, property, or money of the county or the other participant members or to levy any tax to satisfy amounts due under the agreement.

Section 50. Section **11-42-604** is amended to read:

11-42-604. Notice regarding resolution or ordinance authorizing interim warrants or bond anticipation notes -- Complaint contesting warrants or notes -- Prohibition against contesting warrants and notes.

(1) A local entity may publish notice, as provided in Subsection (2), of a resolution or ordinance that the governing body has adopted authorizing the issuance of interim warrants or bond anticipation notes.

(2) (a) If a local entity chooses to publish notice under Subsection (1)[~~(a)~~], the notice shall:

(i) be published:

(A) in a newspaper of general circulation within the local entity; and

(B) as required in Section 45-1-101; and

(ii) contain:

(A) the name of the issuer of the interim warrants or bond anticipation notes;

(B) the purpose of the issue;

(C) the maximum principal amount that may be issued;

(D) the maximum length of time over which the interim warrants or bond anticipation notes may mature;

(E) the maximum interest rate, if there is a maximum rate; and

(F) the times and place where a copy of the resolution or ordinance may be examined, as required under Subsection (2)(b).

(b) The local entity shall allow examination of the resolution or ordinance authorizing the issuance of the interim warrants or bond anticipation notes at its office during regular business hours.

(3) Any person may, within 30 days after publication of a notice under Subsection (1), file a verified, written complaint in the district court of the county in which the person resides, contesting the regularity, formality, or legality of the interim warrants or bond anticipation

notes issued by the local entity or the proceedings relating to the issuance of the interim warrants or bond anticipation notes.

(4) After the 30-day period under Subsection (3), no person may contest the regularity, formality, or legality of the interim warrants or bond anticipation notes issued by a local entity under the resolution or ordinance that was the subject of the notice under Subsection (1), or the proceedings relating to the issuance of the interim warrants or bond anticipation notes.

Section 51. Section **13-1a-5** is amended to read:

13-1a-5. Authority of director.

The director has authority:

(1) to make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the responsibilities of the division;

(2) to investigate, upon complaint, the corporation and commercial code filings and compliance governed by the laws administered and enforced by the division; and

(3) under the provisions of Title 63G, Chapter 4, [~~Utah~~] Administrative Procedures Act, to take administrative action against persons in violation of the division rules and the laws administered by it, including the issuance of cease and desist orders.

Section 52. Section **13-22-8** is amended to read:

13-22-8. Exemptions.

(1) Section 13-22-5 does not apply to:

(a) a solicitation that an organization conducts among its own established and bona fide membership exclusively through the voluntarily donated efforts of other members or officers of the organization;

(b) a bona fide religious, ecclesiastical, or denominational organization if:

(i) the solicitation is made for a church, missionary, religious, or humanitarian purpose; and

(ii) the organization is either:

(A) a lawfully organized corporation, institution, society, church, or established physical place of worship, at which nonprofit religious services and activities are regularly conducted and carried on;

(B) a bona fide religious group:

(I) that does not maintain specific places of worship;

(II) that is not subject to federal income tax; and

(III) not required to file an IRS Form 990 under any circumstance; or

(C) a separate group or corporation that is an integral part of an institution that is an income tax exempt organization under 26 U.S.C. Sec. 501(c)(3) and is not primarily supported by funds solicited outside its own membership or congregation;

(c) a solicitation by a broadcast media owned or operated by an educational institution or governmental entity, or any entity organized solely for the support of that broadcast media;

(d) except as provided in Subsection 13-22-21(1), a solicitation for the relief of any person sustaining a life-threatening illness or injury specified by name at the time of solicitation if the entire amount collected without any deduction is turned over to the named person;

(e) a political party authorized to transact its affairs within this state and any candidate and campaign worker of the party if the content and manner of any solicitation make clear that the solicitation is for the benefit of the political party or candidate;

(f) a political action committee or group soliciting funds relating to issues or candidates on the ballot if the committee or group is required to file financial information with a federal or state election commission;

(g) any school accredited by the state, any accredited institution of higher learning, or club or parent, teacher, or student organization within and authorized by the school in support of the operations or extracurricular activities of the school;

(h) a public or higher education foundation established under Title 53A [~~or 53B~~], State System of Public Education, or Title 53B, State System Of Higher Education;

(i) a television station, radio station, or newspaper of general circulation that donates air time or print space for no consideration as part of a cooperative solicitation effort on behalf of a charitable organization, whether or not that organization is required to register under this chapter;

(j) a volunteer fire department, rescue squad, or local civil defense organization whose financial oversight is under the control of a local governmental entity;

(k) any governmental unit of any state or the United States; and

(l) any corporation:

(i) established by an act of the United States Congress; and

(ii) that is required by federal law to submit an annual report:

(A) on the activities of the corporation, including an itemized report of all receipts and expenditures of the corporation; and

(B) to the United States Secretary of Defense to be:

(I) audited; and

(II) submitted to the United States Congress.

(2) Any organization claiming an exemption under this section bears the burden of proving its eligibility for, or the applicability of, the exemption claimed.

(3) Each organization exempt from registration pursuant to this section that makes a material change in its legal status, officers, address, or similar changes shall file a report informing the division of its current legal status, business address, business phone, officers, and primary contact person within 30 days of the change.

(4) The division may by rule:

(a) require organizations exempt from registration pursuant to this section to file a notice of claim of exemption;

(b) prescribe the contents of the notice of claim; and

(c) require a filing fee for the notice, as determined under Section 63J-1-504.

Section 53. Section **13-23-5** is amended to read:

13-23-5. Registration -- Bond, letter of credit, or certificate of deposit required -- Penalties.

(1) (a) (i) It is unlawful for any health spa facility to operate in this state unless the facility is registered with the division.

(ii) Registration is effective for one year. If the health spa facility renews its registration, the registration shall be renewed at least 30 days prior to its expiration.

(iii) The division shall provide by rule for the form, content, application process, and renewal process of the registration.

(b) Each health spa registering in this state shall designate a registered agent for receiving service of process. The registered agent shall be reasonably available from 8 a.m. until 5 p.m. during normal working days.

(c) The division shall charge and collect a fee for registration under guidelines provided in Section 63J-1-504.

(d) If an applicant fails to file a registration application or renewal by the due date, or files an incomplete registration application or renewal, the applicant shall pay a fee of $25 for each month or part of a month after the date on which the registration application or renewal were due to be filed, in addition to the registration fee described in Subsection (1)(c).

(e) A health spa registering or renewing a registration shall provide the division a copy of the liability insurance policy that:

(i) covers the health spa; and

(ii) is in effect at the time of the registration or renewal.

(2) (a) Each health spa shall obtain and maintain:

(i) a performance bond issued by a surety authorized to transact surety business in this state;

(ii) an irrevocable letter of credit issued by a financial institution authorized to do business in this state; or

(iii) a certificate of deposit.

(b) The bond, letter of credit, or certificate of deposit shall be payable to the division for the benefit of any consumer who incurs damages as the result of:

(i) the health spa's violation of this chapter; or

(ii) the health spa's going out of business or relocating and failing to offer an alternate location within five miles.

(c) (i) The division may recover from the bond, letter of credit, or certificate of deposit the costs of collecting and distributing funds under this section, up to 10% of the face value of the bond, letter of credit, or certificate of deposit but only if the consumers have fully recovered their damages first.

(ii) The total liability of the issuer of the bond, letter of credit, or certificate of deposit may not exceed the amount of the bond, letter of credit, or certificate of deposit.

(iii) The health spa shall maintain a bond, letter of credit, or certificate of deposit in force for one year after it notifies the division in writing that it has ceased all activities regulated by this chapter.

(d) A health spa providing services at more than one location shall comply with the requirements of Subsection (2)(a) for each separate location.

(e) The division may impose a fine against a health spa that fails to comply with the

requirements of Subsection (2)(a) of up to $100 per day that the health spa remains out of compliance. All penalties received shall be deposited into the Consumer Protection Education and Training Fund created in Section 13-2-8.

(3) (a) The minimum principal amount of the bond, letter of credit, or certificate of credit required under Subsection (2) shall be based on the number of unexpired contracts for health spa services to which the health spa is a party, in accordance with the following schedule:

Principal Amount of Bond, Letter of Credit, or Certificate of Deposit	Number of Contracts
$15,000	500 or fewer
35,000	501 to 1,500
50,000	[~~1,500~~] 1,501 to 3,000
75,000	3,001 or more

(b) A health spa that is not exempt under Section 13-23-6 shall comply with Subsection (3)(a) with respect to all of the health spa's unexpired contracts for health spa services, regardless of whether a portion of those contracts satisfies the criteria in Section 13-23-6.

(4) Each health spa shall obtain the bond, letter of credit, or certificate of deposit and furnish a certified copy of the bond, letter of credit, or certificate of deposit to the division prior to selling, offering or attempting to sell, soliciting the sale of, or becoming a party to any contract to provide health spa services. A health spa is considered to be in compliance with this section only if the proof provided to the division shows that the bond, letter of credit, or certificate of credit is current.

(5) Each health spa shall:

(a) maintain accurate records of the bond, letter of credit, or certificate of credit and of any payments made, due, or to become due to the issuer; and

(b) open the records to inspection by the division at any time during normal business hours.

(6) If a health spa changes ownership, ceases operation, discontinues facilities, or

relocates and fails to offer an alternate location within five miles within 30 days after its closing, the health spa is subject to the requirements of this section as if it were a new health spa coming into being at the time the health spa changed ownership. The former owner may not release, cancel, or terminate the owner's liability under any bond, letter of credit, or certificate of deposit previously filed with the division, unless:

(a) the new owner has filed a new bond, letter of credit, or certificate of deposit for the benefit of consumers covered under the previous owner's bond, letter of credit, or certificate of deposit; or

(b) the former owner has refunded all unearned payments to consumers.

(7) If a health spa ceases operation or relocates and fails to offer an alternative location within five miles, the health spa shall provide the division with 45 days prior notice.

Section 54. Section **13-26-4** is amended to read:

13-26-4. Exemptions from registration.

(1) In any enforcement action initiated by the division, the person claiming an exemption has the burden of proving that the person is entitled to the exemption.

(2) The following are exempt from the requirements of this chapter except for the requirements of Sections 13-26-8 and 13-26-11:

(a) a broker, agent, dealer, or sales professional licensed under the licensure laws of this state, when soliciting sales within the scope of his license;

(b) the solicitation of sales by:

(i) a public utility that is regulated under Title 54, Public Utilities, or by an affiliate of the utility;

(ii) a newspaper of general circulation;

(iii) a solicitation of sales made by a broadcaster licensed by any state or federal authority;

(iv) a nonprofit organization if no part of the net earnings from the sale inures to the benefit of any member, officer, trustee, or serving board member of the organization, or individual, or family member of an individual, holding a position of authority or trust in the organization; and

(v) a person who periodically publishes and delivers a catalog of the solicitor's merchandise to prospective purchasers, if the catalog:

(A) contains the price and a written description or illustration of each item offered for sale;

(B) includes the business address of the solicitor;

(C) includes at least 24 pages of written material and illustrations;

(D) is distributed in more than one state; and

(E) has an annual circulation by mailing of not less than 250,000;

(c) any publicly-traded corporation registered with the Securities and Exchange Commission, or any subsidiary of the corporation;

(d) the solicitation of any depository institution as defined in Section 7-1-103, a subsidiary of a depository institution, personal property broker, securities broker, investment adviser, consumer finance lender, or insurer subject to regulation by an official agency of this state or the United States;

(e) the solicitation by a person soliciting only the sale of telephone services to be provided by the person or the person's employer;

(f) the solicitation of a person relating to a transaction regulated by the Commodities Futures Trading Commission, if:

(i) the person is registered with or temporarily licensed by the commission to conduct that activity under the Commodity Exchange Act; and

(ii) the registration or license has not expired or been suspended or revoked;

(g) the solicitation of a contract for the maintenance or repair of goods previously purchased from the person:

(i) who is making the solicitation; or

(ii) on whose behalf the solicitation is made;

(h) the solicitation of previous customers of the business on whose behalf the call is made if the person making the call:

(i) does not offer any premium in conjunction with a sale or offer;

(ii) is not selling an investment or an opportunity for an investment that is not registered with any state or federal authority; and

(iii) is not regularly engaged in telephone sales;

(i) the solicitation of a sale that is an isolated transaction and not done in the course of a pattern of repeated transactions of a like nature;

(j) the solicitation of a person by a retail business establishment that has been in operation for at least five years in Utah under the same name as that used in connection with telemarketing if both of the following occur on a continuing basis:

(i) products are displayed and offered for sale at the place of business, or services are offered for sale and provided at the place of business; and

(ii) a majority of the seller's business involves the buyer obtaining the products or services at the seller's place of business;

(k) a person primarily soliciting the sale of a magazine or periodical sold by the publisher or the publisher's agent through a written agreement, or printed or recorded material through a contractual plan, such as a book or record club, continuity plan, subscription, standing order arrangement, or supplement or series arrangement if:

(i) the seller provides the consumer with a form that the consumer may use to instruct the seller not to ship the offered merchandise, and the arrangement is regulated by the Federal Trade Commission trade regulation concerning use of negative option plans by sellers in commerce; or

(ii) (A) the seller periodically ships merchandise to a consumer who has consented in advance to receive the merchandise on a periodic basis; and

(B) the consumer retains the right to cancel at any time and receive a full refund for the unused portion; or

(l) a telephone marketing service company that provides telemarketing sales services under contract to sellers if:

(i) it has been doing business regularly with customers in Utah for at least five years under the same business name and with its principal office in the same location;

(ii) at least 75% of its contracts are performed on behalf of persons exempted from registration under this chapter; and

(iii) neither the company nor its principals have been enjoined from doing business or subjected to criminal actions for their business activities in this or any other state.

Section 55. Section **13-32a-104** is amended to read:

13-32a-104. Register required to be maintained -- Contents -- Identification of items -- Prohibition against pawning or selling certain property.

(1) Every pawnbroker or secondhand merchandise dealer shall keep a register of each

article of property a person pawns or sells to the pawnbroker or secondhand merchandise dealer, except as provided in Subsection 13-32a-102(23)(b). Every pawn and secondhand business owner or operator, or his employee, shall enter the following information regarding every article pawned or sold to the owner or employee:

(a) the date and time of the transaction;

(b) the pawn transaction ticket number, if the article is pawned;

(c) the date by which the article must be redeemed;

(d) the following information regarding the person who pawns or sells the article:

(i) the person's name, residence address, and date of birth;

(ii) the number of the driver license or other form of positive identification presented by the person, and notations of discrepancies if the person's physical description, including gender, height, weight, race, age, hair color, and eye color, does not correspond with identification provided by the person;

(iii) the person's signature; and

(iv) a legible fingerprint of the person's right index finger, or if the right index finger cannot be fingerprinted, a legible fingerprint of the person with a written notation identifying the fingerprint and the reason why the index finger's print was unavailable;

(e) the amount loaned on or paid for the article, or the article for which it was traded;

(f) the identification of the pawn or secondhand business owner or the employee, whoever is making the register entry; and

(g) an accurate description of the article of property, including available identifying marks such as:

(i) names, brand names, numbers, serial numbers, model numbers, color, manufacturers' names, and size;

(ii) metallic composition, and any jewels, stones, or glass;

(iii) any other marks of identification or indicia of ownership on the article;

(iv) the weight of the article, if the payment is based on weight;

(v) any other unique identifying feature;

(vi) gold content, if indicated; and

(vii) if multiple articles of a similar nature are delivered together in one transaction and the articles do not bear serial or model numbers and do not include precious metals or

gemstones, such as musical or video recordings, books, or hand tools, the description of the articles is adequate if it includes the quantity of the articles and a description of the type of articles delivered.

(2) A pawn or secondhand business may not accept any personal property if, upon inspection, it is apparent that serial numbers, model names, or identifying characteristics have been intentionally defaced on that article of property.

(3) (a) A person may not pawn or sell any property to a business regulated under this chapter if the property is subject to being turned over to a law enforcement agency in accordance with Title 77, Chapter [~~24, Unclaimed~~] 24a, Lost or Mislaid Personal Property.

(b) If an individual attempts to sell or pawn property to a business regulated under this chapter and the employee or owner of the business knows or has reason to know that the property is subject to Title 77, Chapter [~~24, Unclaimed~~] 24a, Lost or Mislaid Personal Property, the employee or owner shall advise the individual of the requirements of Title 77, Chapter [~~24, Unclaimed~~] 24a, Lost or Mislaid Personal Property, and may not receive the property in pawn or sale.

(4) A violation of this section is a class B misdemeanor and is also subject to civil penalties under Section 13-32a-110.

Section 56. Section **13-32a-115** is amended to read:

13-32a-115. Investigation phase and victim's responsibilities.

(1) If the property pawned or sold to a pawn or secondhand business is the subject of a criminal investigation and a hold has been placed on the property under Section 13-32a-109, the original victim shall do the following to establish a claim:

(a) positively identify to law enforcement the item stolen or lost;

(b) if a police report has not already been filed for the original theft or loss of property, file a police report, and provide for the law enforcement agency information surrounding the original theft or loss of property; and

(c) give a sworn statement under penalty of law that:

(i) claims ownership of the property;

(ii) references the original theft or loss; and

(iii) identifies the perpetrator if known.

(2) The pawn or secondhand business shall retain possession of any property subject to

a hold until a criminal prosecution is commenced relating to the property for which the hold was placed unless:

(a) during the course of a criminal investigation the actual physical possession by law enforcement of an article purchased or pawned is essential for the purpose of fingerprinting the property, chemical testing of the property, or if the property contains unique or sensitive personal identifying information; or

(b) an agreement between the original victim and the pawn or secondhand business to return the property is reached.

(3) (a) Upon the commencement of a criminal prosecution, any article subject to a hold for investigation under this chapter may be seized by the law enforcement agency which requested the hold.

(b) Subsequent disposition of the property shall be consistent with Section [~~77-24-2~~] 24-3-103 regarding property not needed as evidence and this chapter.

(c) If a conflict exists between the provisions of Section [~~77-24-2~~] 24-3-103 regarding property not needed as evidence and this chapter, this chapter takes precedence regarding property held by pawn or secondhand businesses.

(4) At all times during the course of a criminal investigation and subsequent prosecution, the article subject to a law enforcement hold shall be kept secure by the pawn or secondhand business subject to the hold unless a pawned or sold article has been seized by the law enforcement agency pursuant to Section 13-32a-109.5.

Section 57. Section **13-32a-117** is amended to read:

13-32a-117. Property disposition if no criminal charges filed -- Administrative hearing.

(1) The original victim or the pawn or secondhand business may request an administrative property disposition hearing with the Division of Consumer Protection if:

(a) more than 30 days have passed since:

(i) the law enforcement agency placed a hold on the property; or

(ii) the property was seized by the law enforcement agency; and

(b) an agreement pursuant to Subsection 13-32a-115(2)(b) has not been reached.

(2) The original victim or the pawn or secondhand business shall provide to the Division of Consumer Protection at the time of the request for a property disposition hearing:

(a) a copy of the sworn statement of the original victim taken pursuant to Section 13-32a-115 and the case number assigned by the law enforcement agency; and

(b) a written notice from the prosecuting agency with jurisdiction over the case involving the property that the prosecuting agency has made an initial determination under Section [~~77-24-2~~] 13-32a-109 or 13-32a-109.5 and this chapter that the property is no longer needed as evidence.

(3) (a) Within 30 days after receiving the request for a property disposition hearing from the original victim or the pawn or secondhand business, the Division of Consumer Protection shall schedule an adjudicative hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act, to determine ownership of the claimed property. The division shall provide written notice of the hearing to the pawn or secondhand business and the original victim.

(b) The division shall conduct the hearing to determine disposition of the claimed seized property, taking into consideration:

(i) the proof of ownership of the property and compliance with Subsection 13-32a-115(1) by the original victim;

(ii) the claim of ownership by the pawn or secondhand business and the potential financial loss to the business; and

(iii) compliance by the pawn or secondhand business with the requirements of this chapter.

(c) If the division determines that the property should be released to the pawn or secondhand business, the original victim retains a right of first refusal over the property for 15 days and may purchase the property at the amount financed or paid by the pawn or secondhand business.

(d) The party to whom the division determines the property is to be released shall maintain possession of the property for the duration of any time period regarding any applicable right of appeal.

Section 58. Section **13-47-102 (Contingently Repealed)** is amended to read:

13-47-102 (Contingently Repealed). Definitions.

As used in this chapter:

(1) "Department" means the Department of Commerce.

(2) "Employee" means an individual:

(a) who is hired to perform services in Utah; and

(b) to whom a private employer provides a federal form required for federal taxation purposes to report income paid to the individual for the services performed.

(3) (a) Except as provided in Subsection (3)(b), "private employer" means a person who for federal taxation purposes is required to provide a federal form:

(i) to an individual who performs services for the person in Utah; and

(ii) to report income paid to the individual who performs the services.

(b) "Private employer" does not mean a public employer as defined in Section [~~63G-11-103~~] 63G-12-102.

(4) (a) "Status verification system" means an electronic system operated by the federal government, through which an employer may inquire to verify the federal legal working status of an individual who is a newly hired employee.

(b) "Status verification system" includes:

(i) the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. Sec. 1324a;

(ii) a federal program equivalent to the program described in Subsection (4)(b)(i) that is designated by the United States Department of Homeland Security or other federal agency authorized to verify the employment eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986;

(iii) the Social Security Number Verification Service or similar online verification process implemented by the United States Social Security Administration; or

(iv) an independent third-party system with an equal or higher degree of reliability as the programs, systems, or processes described in Subsection (4)(b)(i), (ii), or (iii).

Section 59. Section **13-47-201 (Contingently Repealed)** is amended to read:

13-47-201 (Contingently Repealed). Verification required for new hires.

(1) A private employer who employs 15 or more employees [~~as of~~] on or after July 1, 2010, may not hire a new employee on or after July 1, 2010, unless the private employer:

(a) is registered with a status verification system to verify the federal legal working status of any new employee; and

(b) uses the status verification system to verify the federal legal working status of the

new employee in accordance with the requirements of the status verification system.

(2) This section does not apply to a private employer of a foreign national if the foreign national holds a visa issued in response to a petition by the private employer that is classified as H-2A or H-2B.

Section 60. Section **15-8-4** is amended to read:

15-8-4. Inapplicability of other laws -- Exempted transactions.

(1) Rental purchase agreements that comply with this chapter are not governed by the laws relating to:

(a) a security interest as defined in Subsection 70A-1a-201(2)(ii); or

(b) Title 70C, Utah Consumer Credit Code, except that Sections 70C-7-102 through 70C-7-104 and 70C-2-205 shall apply to lessors as defined in this chapter to the same extent as they apply to creditors under Title 70C, Utah Consumer Credit Code.

(2) The chapter does not apply to the following:

(a) rental purchase agreements primarily for business, commercial, or agricultural purposes, or those made with governmental agencies or instrumentalities or with organizations;

(b) a lease of a safe deposit box;

(c) a lease or bailment of personal property which is incidental to the lease of real property and which provides that the consumer has no option to purchase the leased property; or

(d) a lease of a motor vehicle, as defined in Section 41-1a-102.

Section 61. Section **15-9-103** is amended to read:

15-9-103. Administration -- Rulemaking -- Service of process.

(1) (a) This chapter shall be administered by the division and is subject to the requirements of Title 58, Chapter 1, Division of Occupational and Professional Licensing Act, so long as the requirements of Title 58, Chapter 1, Division of Occupational and Professional Licensing Act, are not inconsistent with the requirements of this chapter.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules necessary to implement this chapter.

(2) By acting as an athlete agent in this state, a nonresident individual appoints the director of the division as the individual's agent for service of process in any civil action in this state related to the individual's acting as an athlete agent in this state.

Section 62. Section **15-10-201** is amended to read:

15-10-201. Notice requirement.

(1) Except as provided in Subsection [~~(1)~~] (2)(b), a service contract may not contain an automatic renewal provision unless the seller provides the consumer written notice complying with Subsection (2) that informs the consumer of the automatic renewal provision.

(2) (a) For a service contract executed on or after July 1, 2011, that exceeds 12 months for a renewal period, a seller shall provide written notice of an automatic renewal provision prominently displayed on the first page of the service contract.

(b) In addition to complying with Subsection (2)(a), a seller shall provide written notice required under Subsection (1) to the consumer:

(i) personally;

(ii) by certified mail; or

(iii) prominently displayed on the first page of a monthly statement.

(c) (i) A seller shall provide written notice under Subsection (2)(b):

(A) no later than 30 calendar days before the last day on which the consumer may give notice of the consumer's intention to terminate the service contract; and

(B) no sooner than 90 calendar days before the last day on which the consumer may give notice of the consumer's intention to terminate the service contract.

(ii) A seller may not provide written notice required under Subsection (1) except:

(A) as provided in Subsection (2)(a); or

(B) during the time period described in Subsection (2)(c)(i).

(d) Written notice required under Subsection (1) shall be:

(i) written in clear and understandable language; and

(ii) printed in an easy-to-read type size and style.

Section 63. Section **15A-1-204** is amended to read:

15A-1-204. Adoption of State Construction Code -- Amendments by commission--Approved codes -- Exemptions.

(1) (a) The State Construction Code is the construction codes adopted with any modifications in accordance with this section that the state and each political subdivision of the state shall follow.

(b) A person shall comply with the applicable provisions of the State Construction

Code when:

(i) new construction is involved; and

(ii) the owner of an existing building, or the owner's agent, is voluntarily engaged in:

(A) the repair, renovation, remodeling, alteration, enlargement, rehabilitation, conservation, or reconstruction of the building; or

(B) changing the character or use of the building in a manner that increases the occupancy loads, other demands, or safety risks of the building.

(c) On and after July 1, 2010, the State Construction Code is the State Construction Code in effect on July 1, 2010, until in accordance with this section:

(i) a new State Construction Code is adopted; or

(ii) one or more provisions of the State Construction Code are amended or repealed in accordance with this section.

(d) A provision of the State Construction Code may be applicable:

(i) to the entire state; or

(ii) within a county, city, or town.

(2) (a) The Legislature shall adopt a State Construction Code by enacting legislation that adopts a construction code with any modifications.

(b) Legislation enacted under this Subsection (2) shall state that it takes effect on the July 1 after the day on which the legislation is enacted, unless otherwise stated in the legislation.

(c) Subject to Subsection (5), a State Construction Code adopted by the Legislature is the State Construction Code until, in accordance with this section, the Legislature adopts a new State Construction Code by:

(i) adopting a new State Construction Code in its entirety; or

(ii) amending or repealing one or more provisions of the State Construction Code.

(3) (a) The commission shall by no later than November 30 of each year recommend to the Business and Labor Interim Committee whether the Legislature should:

(i) amend or repeal one or more provisions of a State Construction Code; or

(ii) in a year of a regularly scheduled update of a nationally recognized code, adopt a construction code with any modifications.

(b) The commission may recommend legislative action related to the State

Construction Code:

(i) on its own initiative;

(ii) upon the recommendation of the division; or

(iii) upon the receipt of a request by one of the following that the commission recommend legislative action related to the State Construction Code:

(A) a local regulator;

(B) a state regulator;

(C) a state agency involved with the construction and design of a building;

(D) the Construction Services Commission;

(E) the Electrician Licensing Board;

(F) the Plumbers Licensing Board; or

(G) a recognized construction-related association.

(4) If the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, the Business and Labor Interim Committee shall prepare legislation for consideration by the Legislature in the next general session that, if passed by the Legislature, would:

(a) adopt a new State Construction Code in its entirety; or

(b) amend or repeal one or more provisions of the State Construction Code.

(5) (a) Notwithstanding Subsection (3), the commission may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, amend the State Construction Code if the commission determines that waiting for legislative action in the next general legislative session would:

(i) cause an imminent peril to the public health, safety, or welfare; or

(ii) place a person in violation of federal or other state law.

(b) If the commission amends the State Construction Code in accordance with this Subsection (5), the commission shall file with the division:

(i) the text of the amendment to the State Construction Code; and

(ii) an analysis that includes the specific reasons and justifications for the commission's findings.

(c) If the State Construction Code is amended under this Subsection (5), the division shall:

(i) publish the amendment to the State Construction Code in accordance with Section 15A-1-205; and

(ii) notify the Business and Labor Interim Committee of the amendment to the State Construction Code, including a copy of the commission's analysis described in Subsection (5)(b).

(d) If not formally adopted by the Legislature at its next annual general session, an amendment to the State Construction Code under this Subsection (5) is repealed on the July 1 immediately following the next annual general session that follows the adoption of the amendment.

(6) (a) The division, in consultation with the commission, may approve, without adopting, one or more approved codes, including a specific edition of a construction code, for use by a compliance agency.

(b) If the code adopted by a compliance agency is an approved code described in Subsection (6)(a), the compliance agency may:

(i) adopt an ordinance requiring removal, demolition, or repair of a building;

(ii) adopt, by ordinance or rule, a dangerous building code; or

(iii) adopt, by ordinance or rule, a building rehabilitation code.

(7) (a) Except as provided in Subsection (7)(b), a structure used solely in conjunction with agriculture use, and not for human occupancy, is exempt from the permit requirements of the State Construction Code.

(b) (i) Unless exempted by a provision other than Subsection (7)(a), a plumbing, electrical, and mechanical permit may be required when that work is included in a structure described in Subsection (7)(a).

(ii) Unless located in whole or in part in an agricultural protection area created under Title 17, Chapter 41, Agriculture and Industrial Protection [~~Area~~] Areas, a structure described in Subsection (7)(a) is not exempt from a permit requirement if the structure is located on land that is:

(A) within the boundaries of a city or town, and less than five contiguous acres; or

(B) within a subdivision for which the county has approved a subdivision plat under Title 17, Chapter 27a, Part 6, Subdivisions, and less than two contiguous acres.

Section 64. Section **15A-2-102** is amended to read:

15A-2-102. Definitions.

As used in this chapter and [~~Chapters 3 and 4~~] Chapter 3, Statewide Amendments Incorporated as Part of State Construction Code, and Chapter 4, Local Amendments Incorporated as Part of State Construction Code:

(1) "HUD Code" means the Federal Manufactured Housing Construction and Safety Standards Act, as issued by the Department of Housing and Urban Development and published in 24 C.F.R. Parts 3280 and 3282 (as revised April 1, 1990).

(2) "IBC" means the edition of the International Building Code adopted under Section 15A-2-103.

(3) "IECC" means the edition of the International Energy Conservation Code adopted under Section 15A-2-103.

(4) "IFGC" means the edition of the International Fuel Gas Code adopted under Section 15A-2-103.

(5) "IMC" means the edition of the International Mechanical Code adopted under Section 15A-2-103.

(6) "IPC" means the edition of the International Plumbing Code adopted under Section 15A-2-103.

(7) "IRC" means the edition of the International Residential Code adopted under Section 15A-2-103.

(8) "NEC" means the edition of the National Electrical Code adopted under Section 15A-2-103.

(9) "UWUI" means the edition of the Utah Wildland Urban Interface Code adopted under Section 15A-2-103.

Section 65. Section **15A-2-104** is amended to read:

15A-2-104. Installation standards for manufactured housing.

(1) The following are the installation standards for manufactured housing for new installations or for existing manufactured or mobile homes that are subject to relocation, building alteration, remodeling, or rehabilitation in the state:

(a) The manufacturer's installation instruction for the model being installed is the primary standard.

(b) If the manufacturer's installation instruction for the model being installed is not

available or is incomplete, the following standards apply:

(i) Appendix E of the 2012 edition of the IRC, as issued by the International Code Council for installations defined in Section AE101 of Appendix E; or

(ii) if an installation is beyond the scope of the 2012 edition of the IRC as defined in Section AE101 of Appendix E, the 2005 edition of the NFPA 225 Model Manufactured Home Installation Standard, issued by the National Fire Protection Association.

(c) A manufacturer, dealer, or homeowner is permitted to design for unusual installation of a manufactured home not provided for in the manufacturer's standard installation instruction, Appendix E of the 2012 edition of the IRC, or the 2005 edition of the NFPA 225, if the design is approved in writing by a professional engineer or architect licensed in Utah.

(d) For a mobile home built before June 15, 1976, the mobile home shall also comply with the additional installation and safety requirements specified in Chapter 3, Part 8, Installation and Safety Requirements for Mobile Homes Built Before June 15, 1976.

(2) Pursuant to the HUD Code Section 604(d), a manufactured home may be installed in the state that does not meet the local snow load requirements as specified in Chapter 3, Part 2, Statewide Amendments to [~~IRC~~] International Residential Code, except that the manufactured home shall have a protective structure built over the home that meets the IRC and the snow load requirements under Chapter 3, Part 2, Statewide Amendments to [~~IRC~~] International Residential Code.

Section 66. Section **15A-3-201** is amended to read:

15A-3-201. General provision.

(1) The amendments in this part are adopted as amendments to the IRC to be applicable statewide.

(2) The statewide amendments to the following which may be applied to detached one- and two-family dwellings and multiple single-family dwellings shall be applicable to the corresponding provisions of the IRC:

(a) IBC under Part 1, Statewide Amendments to [~~IBC~~] International Building Code;

(b) IPC under Part 3, Statewide Amendments to [~~IPC~~] International Plumbing Code;

(c) IMC under Part 4, Statewide Amendments to [~~IMC~~] International Mechanical Code;

(d) IFGC under Part 5, Statewide Amendments to [~~IFGC~~] International Fuel Gas Code;

(e) NEC under Part 6, Statewide Amendments to [~~NEC~~] National Electrical Code; and

(f) IECC under Part 7, Statewide Amendments to [~~IECC~~] International Energy Conservation Code.

Section 67. Section **15A-3-306** is amended to read:

15A-3-306. Amendments to Chapter 6 of IPC.

(1) IPC, Section 602.3, is deleted and replaced with the following: "602.3 Individual water supply. Where a potable public water supply is not available, individual sources of potable water supply shall be utilized provided that the source has been developed in accordance with Utah Code, Sections 73-3-1, 73-3-3, and 73-3-25, as administered by the Department of Natural Resources, Division of Water Rights. In addition, the quality of the water shall be approved by the local health department having jurisdiction. The source shall supply sufficient quantity of water to comply with the requirements of this chapter."

(2) IPC, Sections 602.3.1, 602.3.2, 602.3.3, 602.3.4, 602.3.5, and 602.3.5.1, are deleted.

(3) A new IPC, Section 604.4.1, is added as follows: "604.4.1 Manually operated metering faucets. Self closing or manually operated metering faucets shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet."

(4) IPC, Section 606.5, is deleted and replaced with the following: "606.5 Water pressure booster systems. Water pressure booster systems shall be provided as required by Section 606.5.1 through 606.5.11."

(5) A new IPC, Section 606.5.11, is added as follows: "606.5.11 Prohibited installation. In no case shall a booster pump be allowed that will lower the pressure in the public main to less than the minimum water pressure specified in Utah Administrative Code R309-105-9."

(6) In IPC, Section 608.1, the words "and pollution" are added after the word "contamination."

(7) IPC, Table 608.1, is deleted and replaced with the following:

"TABLE 608.1			
Application of Back Flow Preventers			
DEVICE	DEGREE OF HAZARD[a]	APPLICATION[b]	APPLICABLE STANDARDS

2628	BACKFLOW PREVENTION ASSEMBLIES:			
2629	Double check backflow prevention assembly and double check fire protection backflow prevention assembly	Low hazard	Backpressure or backsiphonage Sizes 3/8" - 16"	ASSE 1015, AWWA C510, CSA B64.5, CSA B64.5.1
2630	Double check detector fire protection backflow prevention assemblies	Low hazard	Backpressure or backsiphonage Sizes 3/8" - 16"	ASSE 1048
2631	Pressure vacuum breaker assembly	High or low hazard	Backsiphonage only Sizes 1/2" - 2"	ASSE 1020, CSA B64.1.2
2632	Reduced pressure principle backflow prevention assembly and reduced pressure principle fire protection backflow assembly	High or low hazard	Backpressure or backsiphonage Sizes 3/8" - 16"	ASSE 1013, AWWA C511, CSA B64.4, CSA B64.4.1
2633	Reduced pressure detector fire protection backflow prevention assemblies	High or low hazard	Backpressure or backsiphonage (Fire Sprinkler Systems)	ASSE 1047
2634	Spill-resistant vacuum breaker assembly	High or low hazard	Backsiphonage only Sizes 1/2" - 2"	ASSE 1056
2635	BACKFLOW PREVENTER PLUMBING DEVICES:			
2636	Antisiphon-type fill valves for gravity water closet flush tanks	High hazard	Backsiphonage only	ASSE 1002, CSA B125.3

2637	Backflow preventer for carbonated beverage machines	Low hazard	Backpressure or backsiphonage Sizes 1/4" - 3/8"	ASSE 1022
2638	Backflow preventer with intermediate atmospheric vents	Low hazard	Backpressure or backsiphonage Sizes 1/4" - 3/8"	ASSE 1012, CSA B64.3
2639	Dual check valve type backflow preventers	Low hazard	Backpressure or backsiphonage Sizes 1/4" - 1"	ASSE 1024, CSA B64.6
2640	Hose connection backflow preventer	High or low hazard	Backsiphonage only Sizes 1/2" - 1"	ASSE 1052, CSA B64.2, B64.2.1
2641	Hose connection vacuum breaker	High or low hazard	Backsiphonage only Sizes 1/2", 3/4", 1"	ASSE 1011, CAN/CSA B64.1.1
2642	Atmospheric type vacuum breaker	High or low hazard	Backsiphonage only Sizes 1/2" - 4"	ASSE 1001, CSA B64.1.1
2643	Vacuum breaker wall hydrants, frost resistant, automatic draining type	High or low hazard	Backsiphonage only Sizes 3/4", 1"	ASSE 1019, CSA B64.2.2
2644	OTHER MEANS or METHODS:			
2645	Air gap	High or low hazard	Backsiphonage only	ASME A112.1.2
2646	Air gap fittings for use with plumbing fixtures, appliances and appurtenances	High or low hazard	Backpressure or backsiphonage	ASME A112.1.3
2647	For SI: 1 inch = 25.4 mm			
2648	a. Low Hazard - See Pollution (Section 202), High Hazard - See Contamination (Section 202)			
2649	b. See Backpressure (Section 202), See Backpressure, low head (Section 202), See Backsiphonage (Section 202)			

Installation Guidelines: The above specialty devices shall be installed in accordance with their listing and the manufacturer's instructions and the specific provisions of this chapter."

(8) In IPC, Section 608.3, the word "and" after the word "contamination" is deleted and replaced with a comma and the words "and pollution" are added after the word "contamination" in the first sentence.

(9) In IPC, Section 608.5, the words "with the potential to create a condition of either contamination or pollution or" are added after the word "substances".

(10) In IPC, Section 608.6, the following sentence is added at the end of the paragraph: "Any connection between potable water piping and sewer-connected waste shall be protected by an air gap in accordance with Section 608.13.1."

(11) IPC, Section 608.7, is deleted and replaced with the following: "608.7 Stop and Waste Valves installed below grade. Combination stop-and-waste valves shall be permitted to be installed underground or below grade. Freeze proof yard hydrants that drain the riser into the ground are considered to be stop-and-waste valves and shall be permitted."

(12) In IPC, Section 608.11, the following sentence is added at the end of the paragraph: "The coating and installation shall conform to NSF Standard 61 and application of the coating shall comply with the manufacturer’s instructions."

(13) IPC, Section 608.13.3, is deleted and replaced with the following: "608.13.3 Backflow preventer with intermediate atmospheric vent. Backflow preventers with intermediate atmospheric vents shall conform to ASSE 1012 or CSA CAN/CSA-B64.3. These devices shall be permitted to be installed on residential boilers only, without chemical treatment, where subject to continuous pressure conditions. The relief opening shall discharge by air gap and shall be prevented from being submerged."

(14) IPC, Section 608.13.4, is deleted.

(15) IPC, Section 608.13.9, is deleted and replaced with the following: "608.13.9 Chemical dispenser backflow devices. Backflow devices for chemical dispensers shall comply with Section 608.16.7."

(16) IPC, Section 608.15.3, is deleted and replaced with the following: "608.15.3 Protection by a backflow preventer with intermediate atmospheric vent. Connections to residential boilers only, without chemical treatment, shall be protected by a backflow preventer with an intermediate atmospheric vent."

(17) IPC, Section 608.15.4, is deleted and replaced with the following: "608.15.4 Protection by a vacuum breaker. Openings and outlets shall be protected by atmospheric-type or pressure-type vacuum breakers. Vacuum breakers shall not be installed under exhaust hoods or similar locations that will contain toxic fumes or vapors. Fill valves shall be set in accordance with Section 425.3.1. Atmospheric Vacuum Breakers - The critical level of the atmospheric vacuum breaker shall be set a minimum of 6 inches (152 mm) above the flood level rim of the fixture or device. Pipe-applied vacuum breakers shall be installed not less than 6 inches (152 mm) above the flood level rim of the fixture, receptor, or device served. No valves shall be installed downstream of the atmospheric vacuum breaker. Pressure Vacuum Breaker - The critical level of the pressure vacuum breaker shall be set a minimum of 12 inches (304 mm) above the flood level of the fixture or device."

(18) In IPC, Section 608.15.4.2, the following is added after the first sentence: "Add-on-backflow prevention devices shall be non-removable. In climates where freezing temperatures occur, a listed self-draining frost proof hose bibb with an integral backflow preventer shall be used."

(19) [~~In~~] IPC, Section 608.16.2, is deleted and replaced as follows: "608.16.2 Connections to boilers. The potable supply to a boiler shall be protected by an air gap or a reduced pressure principle backflow preventer, complying with ASSE 1013, CSA B64.4 or AWWA C511.

Exception: The potable supply to a residential boiler without chemical treatment may be equipped with a backflow preventer with an intermediate atmospheric vent complying with ASSE 1012 or CSA CAN/CSA-B64.3."

(20) IPC, Section 608.16.3, is deleted and replaced with the following: "608.16.3 Heat exchangers. Heat exchangers shall be separated from potable water by double-wall construction. An air gap open to the atmosphere shall be provided between the two walls.

Exceptions:

1. Single wall heat exchangers shall be permitted when all of the following conditions are met:

a. It utilizes a heat transfer medium of potable water or contains only substances which are recognized as safe by the United States Food and Drug Administration (FDA);

b. The pressure of the heat transfer medium is maintained less than the normal minimum operating pressure of the potable water system; and

c. The equipment is permanently labeled to indicate only additives recognized as safe by the FDA shall be used.

2. Steam systems that comply with paragraph 1 above.

3. Approved listed electrical drinking water coolers."

(21) In IPC, Section 608.16.4.1, a new exception is added as follows: "Exception: All class 1 and 2 systems containing chemical additives consisting of strictly glycerine (C.P. or U.S.P. 96.5 percent grade) or propylene glycol shall be protected against backflow with a double check valve assembly. Such systems shall include written certification of the chemical additives at the time of original installation and service or maintenance."

(22) IPC, Section 608.16.7, is deleted and replaced with the following: "608.16.7 Chemical dispensers. Where chemical dispensers connect to the water distribution system, the water supply system shall be protected against backflow in accordance with Section 608.13.1, Section 608.13.2, Section 608.13.5, Section 608.13.6 or Section 608.13.8. Chemical dispensers shall connect to a separate dedicated water supply separate from any sink faucet."

(23) IPC, Section 608.16.8, is deleted and replaced with the following: "608.16.8 Portable cleaning equipment. Where the portable cleaning equipment connects to the water distribution system, the water supply system shall be protected against backflow in accordance with Section 608.13.1, Section 608.13.2 or Section 608.13.8."

(24) A new IPC, Section 608.16.11, is added as follows: "608.16.11 Automatic and coin operated car washes. The water supply to an automatic or coin operated car wash shall be protected in accordance with Section 608.13.1 or Section 608.13.2."

(25) IPC, Section 608.17, is deleted and replaced with the following: "608.17 Protection of individual water supplies. See Section 602.3 for requirements."

Section 68. Section **15A-4-201** is amended to read:

15A-4-201. General provision.

(1) The amendments in this part are adopted as amendments to the IRC to be applicable to specified jurisdiction.

(2) A local amendment to the following which may be applied to detached one and two family dwellings and multiple single family dwellings shall be applicable to the corresponding provisions of the IRC for the local jurisdiction to which the local amendment has been made:

(a) IBC under Part 1, Local Amendments to [~~IBC~~] International Building Code;

(b) IPC under Part 3, Local Amendments to [~~IPC~~] International Plumbing Code;

(c) IMC under Part 4, Local Amendments to [~~IMC~~] International Mechanical Code;

(d) IFGC under Part 5, Local Amendments to [~~IFGC~~] International Fuel Gas Code;

(e) NEC under Part 6, Local Amendments to [~~NEC~~] National Electrical Code; and

(f) IECC under Part 7, Local Amendments to [~~IECC~~] International Energy Conservation Code.

Section 69. Section **15A-5-103** is amended to read:

15A-5-103. Nationally recognized codes incorporated by reference.

The following codes are incorporated by reference into the State Fire Code:

(1) the International Fire Code, 2012 edition, excluding appendices, as issued by the International Code Council, Inc., except as amended by Part 2, Statewide Amendments and Additions to [~~IFC~~] International Fire Code Incorporated as Part of State Fire Code;

(2) National Fire Protection Association, NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, 2011 edition, except as amended by Part 3, Statewide Amendments and Additions to [~~NFPA~~] National Fire Protection Association Incorporated as Part of State Fire Code; and

(3) National Fire Protection Association, NFPA 1403, Standard on Live Fire Training Evolutions, 2012 edition, except as amended by Part 3, Statewide Amendments and Additions to [~~NFPA~~] National Fire Protection Association Incorporated as Part of State Fire Code.

Section 70. Section **16-6a-1011** is amended to read:

16-6a-1011. Bylaw changing quorum or voting requirement for members.

(1) (a) If authorized by the articles of incorporation, the members may adopt, amend, or repeal bylaws that fix a greater quorum or voting requirement for members, or voting groups of members, than is required by this chapter.

(b) An action by the members under Subsection (1)(a) is subject to [~~Parts 6 and 7~~] Part 6, Members, and Part 7, Member Meetings and Voting.

(2) Bylaws that fix a greater quorum requirement or a greater voting requirement for members pursuant to Section 16-6a-716 may not be amended by the board of directors.

Section 71. Section **16-6a-1202** is amended to read:

16-6a-1202. Sale of property other than in regular course of activities.

(1) (a) A nonprofit corporation may sell, lease, exchange, or otherwise dispose of all,

or substantially all, of its property, with or without its good will, other than in the usual and regular course of business on the terms and conditions and for the consideration determined by the board of directors, if:

(i) the board of directors proposes the transaction; and

(ii) the members entitled to vote on the transaction approve the transaction.

(b) A sale, lease, exchange, or other disposition of all, or substantially all, of the property of a nonprofit corporation, with or without its good will, in connection with its dissolution, other than in the usual and regular course of business, and other than pursuant to a court order, shall be subject to this section.

(c) A sale, lease, exchange, or other disposition of all, or substantially all, of the property of a nonprofit corporation, with or without its good will, pursuant to a court order is not subject to this section.

(2) (a) A nonprofit corporation shall comply with Subsection (2)(b) to vote or otherwise consent with respect to the sale, lease, exchange, or other disposition of all, or substantially all, of the property with or without the good will of another entity that the nonprofit corporation controls if:

(i) the nonprofit corporation is entitled to vote or otherwise consent; and

(ii) the property interests held by the nonprofit corporation in the other entity constitute all, or substantially all, of the property of the nonprofit corporation.

(b) A nonprofit corporation may vote or otherwise consent to a transaction described in Subsection (2)(a) only if:

(i) the board of the directors of the nonprofit corporation proposes the vote or consent; and

(ii) the members, if any are entitled to vote on the vote or consent, approve giving the vote or consent.

(3) For a transaction described in Subsection (1) or a consent described in Subsection (2) to be approved by the members:

(a) (i) the board of directors shall recommend the transaction or the consent to the members; or

(ii) the board of directors shall:

(A) determine that because of a conflict of interest or other special circumstance it

should make no recommendation; and

(B) communicate the basis for its determination to the members at a membership meeting with the submission of the transaction or consent; and

(b) the members entitled to vote on the transaction or the consent shall approve the transaction or the consent as provided in Subsection (6).

(4) The board of directors may condition the effectiveness of the transaction or the consent on any basis.

(5) (a) The nonprofit corporation shall give notice, in accordance with Section 16-6a-704 to each member entitled to vote on the transaction described in Subsection (1) or the consent described in Subsection (2), of the members' meeting at which the transaction or the consent will be voted upon.

(b) The notice required by Subsection (1) shall:

(i) state that the purpose, or one of the purposes, of the meeting is to consider:

(A) in the case of action pursuant to Subsection (1), the sale, lease, exchange, or other disposition of all, or substantially all, of the property of the nonprofit corporation; or

(B) in the case of action pursuant to Subsection (2), the nonprofit corporation's consent to the sale, lease, exchange, or other disposition of all, or substantially all, of the property of another entity, the property interests of which:

(I) are held by the nonprofit corporation; and

(II) constitute all, or substantially all, of the property of the nonprofit corporation;

(ii) contain or be accompanied by a description of:

(A) the transaction, in the case of action pursuant to Subsection (1); or

(B) the transaction underlying the consent, in the case of action pursuant to Subsection (2); and

(iii) in the case of action pursuant to Subsection (2), identify the entity whose property is the subject of the transaction.

(6) The transaction described in Subsection (1) or the consent described in Subsection (2) shall be approved by the votes required by Sections 16-6a-714 and 16-6a-715 by every voting group entitled to vote on the transaction or the consent unless a greater vote is required by:

(a) this chapter;

(b) the articles of incorporation;

(c) bylaws adopted by the members; or

(d) the board of directors acting pursuant to Subsection (4).

(7) After a transaction described in Subsection (1) or a consent described in Subsection (2) is authorized, the transaction may be abandoned or the consent withheld or revoked, subject to any contractual rights or other limitations on such abandonment, withholding, or revocation, without further action by the members.

(8) A transaction that constitutes a distribution is governed by Part 13, Distributions, and not by this section.

Section 72. Section **16-6a-1701** is amended to read:

16-6a-1701. Application to existing domestic nonprofit corporations -- Reports of domestic and foreign nonprofit corporation.

(1) Except as otherwise provided in Section 16-6a-1704, this chapter applies to domestic nonprofit corporations as follows:

(a) domestic nonprofit corporations in existence on April 30, 2001, that were incorporated under any general statute of this state providing for incorporation of nonprofit corporations, including all nonprofit corporations organized under any former provisions of [~~Title 16, Chapter 6, Utah Nonprofit Corporation and Co-operative Association Act~~] this chapter;

(b) mutual irrigation, canal, ditch, reservoir, and water companies and water users' associations organized and existing under the laws of this state on April 30, 2001;

(c) corporations organized under the provisions of Title 16, Chapter 7, Corporations Sole, for purposes of applying all provisions relating to merger or consolidation; and

(d) to actions taken by the directors, officers, and members of the entities described in Subsections (1)(a), (b), and (c) after April 30, 2001.

(2) Domestic nonprofit corporations to which this chapter applies, that are organized and existing under the laws of this state on April 30, 2001:

(a) shall continue in existence with all the rights and privileges applicable to nonprofit corporations organized under this chapter; and

(b) from April 30, 2001 shall have all the rights and privileges and shall be subject to all the remedies, restrictions, liabilities, and duties prescribed in this chapter except as

otherwise specifically provided in this chapter.

(3) Every existing domestic nonprofit corporation and foreign nonprofit corporation qualified to conduct affairs in this state on April 30, 2001 shall file an annual report with the division setting forth the information prescribed by Section 16-6a-1607. The annual report shall be filed at such time as would have been required had this chapter not taken effect and shall be filed annually thereafter as required in Section 16-6a-1607.

Section 73. Section **16-6a-1702** is amended to read:

16-6a-1702. Application to foreign nonprofit corporations.

(1) A foreign nonprofit corporation authorized to conduct affairs in this state on April 30, 2001, is subject to this chapter, but is not required to obtain a new certificate of authority to conduct affairs under this chapter.

(2) A foreign nonprofit corporation that is qualified to do business in this state under the provisions of [~~Title 16,~~] Chapter 8, which provisions were repealed by Laws of Utah 1961, Chapter 28, shall be authorized to transact business in this state subject to all of the limitations, restrictions, liabilities, and duties prescribed in this chapter.

(3) This chapter shall apply to all foreign nonprofit corporations sole qualified to do business in this state with respect to mergers and consolidations.

Section 74. Section **16-10a-402** is amended to read:

16-10a-402. Reserved name.

(1) Any person may apply for the reservation of a name by delivering to the division for filing an application setting forth the name and address of the applicant and the name proposed to be reserved. If the division finds that the name applied for would be available for use as a corporate name under Section 16-10a-401, the division shall reserve the name for the applicant for a 120-day period. Any person which has in effect a reservation of a name permitted by this Subsection may renew the reservation by delivering to the division for filing prior to expiration of the reservation a renewal application for reservation, which complies with the requirements of this Subsection (1). When filed, the renewal application for reservation renews the reservation for a period of 120 days from the date of filing.

(2) The applicant for a reserved name may transfer the reservation to another person by delivering to the division a notice of the transfer signed by the applicant for which the name was reserved and specifying the reserved name, the name of the holder of the name, and the

name and address of the transferee.

(3) A name reservation does not authorize the applicant to use the name until:

(a) the name is registered as a trade name under Section 42-2-5;

(b) articles of incorporation which bear the name are filed with the division; or

(c) an application for authority to transact business in this state under the name has been filed with the division pursuant to Part 15 [~~of this chapter~~], Authority of Foreign Corporation to Transact Business.

Section 75. Section **16-10a-901** is amended to read:

16-10a-901. Definitions.

As used in Part 9, Indemnification:

(1) "Corporation" includes any domestic or foreign entity that is a predecessor of a corporation by reason of a merger or other transaction in which the predecessor's existence ceased upon consummation of the transaction.

(2) "Director" means an individual who is or was a director of a corporation or an individual who, while a director of a corporation, is or was serving at the corporation's request as a director, officer, partner, trustee, employee, fiduciary, or agent of another domestic or foreign corporation or other person or of an employee benefit plan. A director is considered to be serving an employee benefit plan at the corporation's request if his duties to the corporation also impose duties on, or otherwise involve services by, him to the plan or to participants in or beneficiaries of the plan. "Director" includes, unless the context requires otherwise, the estate or personal representative of a director.

(3) "Expenses" include counsel fees.

(4) "Liability" means the obligation incurred with respect to a proceeding to pay a judgment, settlement, penalty, fine (including an excise tax assessed with respect to an employee benefit plan), or reasonable expenses.

(5) "Officer," "employee," "fiduciary," and "agent" include any person who, while serving the indicated relationship to the corporation, is or was serving at the corporation's request as a director, officer, partner, trustee, employee, fiduciary, or agent of another domestic or foreign corporation or other person or of an employee benefit plan. An officer, employee, fiduciary, or agent is considered to be serving an employee benefit plan at the corporation's request if that person's duties to the corporation also impose duties on, or otherwise involve

services by, that person to the plan or participants in, or beneficiaries of the plan. Unless the context requires otherwise, such terms include the estates or personal representatives of such persons.

(6) (a) "Official capacity" means:

(i) when used with respect to a director, the office of director in a corporation; and

(ii) when used with respect to a person other than a director, as contemplated in Section 16-10a-907, the office in a corporation held by the officer or the employment, fiduciary, or agency relationship undertaken by him on behalf of the corporation.

(b) "Official capacity" does not include service for any other foreign or domestic corporation, other person, or employee benefit plan.

(7) "Party" includes an individual who was, is, or is threatened to be made a named defendant or respondent in a proceeding.

(8) "Proceeding" means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal.

Section 76. Section **16-10a-1106** is amended to read:

16-10a-1106. Effect of merger or share exchange.

(1) When a merger takes effect:

(a) Every other corporation party to the merger merges into the surviving corporation and the separate existence of every corporation except the surviving corporation ceases.

(b) The title to all real estate and other property owned by each corporation party to the merger is transferred to and vested in the surviving corporation without reversion or impairment. The transfer to and vesting in the surviving corporation occurs by operation of law. No consent or approval of any other person is required in connection with the transfer or vesting unless consent or approval is specifically required in the event of merger by law or by express provision in any contract, agreement, decree, order, or other instrument to which any of the corporations so merged is a party or by which it is bound.

(c) The surviving corporation has all liabilities of each corporation party to the merger.

(d) A proceeding pending against any corporation party to the merger may be continued as if the merger did not occur, or the surviving corporation may be substituted in the proceeding for the corporation whose existence ceased.

(e) The articles of incorporation of the surviving corporation are amended to the extent provided in the plan of merger.

(f) The shares of each corporation party to the merger, which are to be converted into shares, obligations, or other securities of the surviving or any other corporation or into money or other property, are converted, and the former holders of the shares are entitled only to the rights provided in the articles of merger or to their rights under Part 13, Dissenters' Rights.

(2) When a share exchange takes effect, the shares of each acquired corporation are exchanged as provided in the plan, and the former holders of the shares are entitled only to the exchange rights provided in the articles of share exchange or to their rights under Part 13, Dissenters' Rights.

Section 77. Section **16-10a-1301** is amended to read:

16-10a-1301. Definitions.

For purposes of Part 13, Dissenters' Rights:

(1) "Beneficial shareholder" means the person who is a beneficial owner of shares held in a voting trust or by a nominee as the record shareholder.

(2) "Corporation" means the issuer of the shares held by a dissenter before the corporate action, or the surviving or acquiring corporation by merger or share exchange of that issuer.

(3) "Dissenter" means a shareholder who is entitled to dissent from corporate action under Section 16-10a-1302 and who exercises that right when and in the manner required by Sections 16-10a-1320 through 16-10a-1328.

(4) "Fair value" with respect to a dissenter's shares, means the value of the shares immediately before the effectuation of the corporate action to which the dissenter objects, excluding any appreciation or depreciation in anticipation of the corporate action.

(5) "Interest" means interest from the effective date of the corporate action until the date of payment, at the statutory rate set forth in Section 15-1-1, compounded annually.

(6) "Record shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares that are registered in the name of a nominee to the extent the beneficial owner is recognized by the corporation as the shareholder as provided in Section 16-10a-723.

(7) "Shareholder" means the record shareholder or the beneficial shareholder.

Section 78. Section **16-10a-1405** is amended to read:

16-10a-1405. Effect of dissolution.

(1) A dissolved corporation continues its corporate existence but may not carry on any business except that appropriate to wind up and liquidate its business and affairs, including:

(a) collecting its assets;

(b) disposing of its properties that will not be distributed in kind to its shareholders;

(c) discharging or making provision for discharging its liabilities;

(d) distributing its remaining property among its shareholders according to their interests; and

(e) doing every other act necessary to wind up and liquidate its business and affairs.

(2) Dissolution of a corporation does not:

(a) transfer title to the corporation's property;

(b) prevent transfer of its shares or securities, although the authorization to dissolve may provide for closing the corporation's share transfer records;

(c) subject its directors or officers to standards of conduct different from those prescribed in Part 8, Directors and Officers;

(d) change:

(i) quorum or voting requirements for its board of directors or shareholders;

(ii) provisions for selection, resignation, or removal of its directors or officers or both; or

(iii) provisions for amending its bylaws or its articles of incorporation;

(e) prevent commencement of a proceeding by or against the corporation in its corporate name;

(f) abate or suspend a proceeding pending by or against the corporation on the effective date of dissolution; or

(g) terminate the authority of the registered agent of the corporation.

Section 79. Section **16-16-113** is amended to read:

16-16-113. Effect of organic rules.

(1) The relations between a limited cooperative association and its members are consensual. Unless required, limited, or prohibited by this chapter, the organic rules may provide for any matter concerning the relations among the members of the association and

between the members and the association, the activities of the association, and the conduct of its activities.

(2) The matters referred to in Subsections (2)(a) through (i) may be varied only in the articles of organization. The articles may:

(a) state a term of existence for the association under Subsection 16-16-105(3);

(b) limit or eliminate the acceptance of new or additional members by the initial board of directors under Subsection 16-16-303(2);

(c) vary the limitations on the obligations and liability of members for association obligations under Section 16-16-504;

(d) require a notice of an annual members meeting to state a purpose of the meeting under Subsection 16-16-508(2);

(e) vary the board of directors meeting quorum under Subsection 16-16-815(1);

(f) vary the matters the board of directors may consider in making a decision under Section 16-16-820;

(g) specify causes of dissolution under Subsection 16-16-1202(1);

(h) delegate amendment of the bylaws to the board of directors pursuant to Subsection 16-16-405(6);

(i) provide for member approval of asset dispositions under [~~Subsection~~] Section 16-16-1501; and

(j) provide for any matters that may be contained in the organic rules, including those under Subsection (3).

(3) The matters referred to in Subsections (3)(a) through (y) may be varied only in the organic rules. The organic rules may:

(a) require more information to be maintained under Section 16-16-114 or provided to members under Subsection 16-16-505(11);

(b) provide restrictions on transactions between a member and an association under Section 16-16-115;

(c) provide for the percentage and manner of voting on amendments to the organic rules by district, class, or voting group under Subsection 16-16-404(1);

(d) provide for the percentage vote required to amend the bylaws concerning the admission of new members under Subsection 16-16-405(5)(e);

(e) provide for terms and conditions to become a member under Section 16-16-502;

(f) restrict the manner of conducting members meetings under Subsections 16-16-506(3) and 16-16-507(5);

(g) designate the presiding officer of members meetings under Subsections 16-16-506(5) and 16-16-507(7);

(h) require a statement of purposes in the annual meeting notice under Subsection 16-16-508(2);

(i) increase quorum requirements for members meetings under Section 16-16-510 and board of directors meetings under Section 16-16-815;

(j) allocate voting power among members, including patron members and investor members, and provide for the manner of member voting and action as permitted by Sections 16-16-511 through 16-16-517;

(k) authorize investor members and expand or restrict the transferability of members' interests to the extent provided in Sections 16-16-602 through 16-16-604;

(l) provide for enforcement of a marketing contract under Subsection 16-16-704(1);

(m) provide for qualification, election, terms, removal, filling vacancies, and member approval for compensation of directors in accordance with Sections 16-16-803 through 16-16-805, 16-16-807, 16-16-809, and 16-16-810;

(n) restrict the manner of conducting board meetings and taking action without a meeting under Sections 16-16-811 and 16-16-812;

(o) provide for frequency, location, notice and waivers of notice for board meetings under Sections 16-16-813 and 16-16-814;

(p) increase the percentage of votes necessary for board action under Subsection 16-16-816(2);

(q) provide for the creation of committees of the board of directors and matters related to the committees in accordance with Section 16-16-817;

(r) provide for officers and their appointment, designation, and authority under Section 16-16-822;

(s) provide for forms and values of contributions under Section 16-16-1002;

(t) provide for remedies for failure to make a contribution under Subsection 16-16-1003(2);

(u) provide for the allocation of profits and losses of the association, distributions, and the redemption or repurchase of distributed property other than money in accordance with Sections 16-16-1004 through 16-16-1007;

(v) specify when a member's dissociation is wrongful and the liability incurred by the dissociating member for damage to the association under Subsections 16-16-1101(2) and (3);

(w) provide the personal representative, or other legal representative of, a deceased member or a member adjudged incompetent with additional rights under Section 16-16-1103;

(x) increase the percentage of votes required for board of director approval of:

(i) a resolution to dissolve under Subsection 16-16-1205(1)(a);

(ii) a proposed amendment to the organic rules under Subsection 16-16-402(1)(a);

(iii) a plan of conversion under Subsection 16-16-1603(1);

(iv) a plan of merger under Subsection 16-16-1607(1); and

(v) a proposed disposition of assets under Subsection 16-16-1503(1); and

(y) vary the percentage of votes required for members' approval of:

(i) a resolution to dissolve under Section 16-16-1205;

(ii) an amendment to the organic rules under Section 16-16-405;

(iii) a plan of conversion under Section 16-16-1603;

(iv) a plan of merger under Section 16-16-1608; and

(v) a disposition of assets under Section 16-16-1504.

(4) The organic rules shall address members' contributions pursuant to Section 16-16-1001.

Section 80. Section **17-18a-405** is amended to read:

17-18a-405. Civil responsibilities of public prosecutors.

A public prosecutor may act as legal counsel to the state, county, government agency, or government entity regarding the following matters of civil law:

(1) bail bond forfeiture actions;

(2) actions for the forfeiture of property or contraband, as provided in Title 24, [~~Chapter 1, Utah Uniform Forfeiture Procedures Act~~] Forfeiture and Disposition of Property Act;

(3) civil actions incidental to or appropriate to supplement a public prosecutor's duties, including an injunction, a habeas corpus, a declaratory action, or an extraordinary writ action,

in which the interests of the state may be affected; and

(4) any other civil duties related to criminal prosecution that are otherwise provided by statute.

Section 81. Section **17-23-17.5** is amended to read:

17-23-17.5. Corner perpetuation and filing -- Definitions -- Establishment of corner file -- Preservation of map records -- Filing fees -- Exemptions.

(1) As used in this section:

(a) "Accessory to a corner" means any exclusively identifiable physical object whose spatial relationship to the corner is recorded. Accessories may be bearing trees, bearing objects, monuments, reference monuments, line trees, pits, mounds, charcoal-filled bottles, steel or wooden stakes, or other objects.

(b) "Corner," unless otherwise qualified, means a property corner, a property controlling corner, a public land survey corner, or any combination of these.

(c) "Geographic coordinates" means mathematical values that designate a position on the earth relative to a given reference system. Coordinates shall be established pursuant to Title 57, Chapter 10, Utah Coordinate System.

(d) "Land surveyor" means a surveyor who is licensed to practice land surveying in this state in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

(e) "Monument" means an accessory that is presumed to occupy the exact position of a corner.

(f) "Property controlling corner" means a public land survey corner or any property corner which does not lie on a property line of the property in question, but which controls the location of one or more of the property corners of the property in question.

(g) "Property corner" means a geographic point of known geographic coordinates on the surface of the earth, and is on, a part of, and controls a property line.

(h) "Public land survey corner" means any corner actually established and monumented in an original survey or resurvey used as a basis of legal descriptions for issuing a patent for the land to a private person from the United States government.

(i) "Reference monument" means a special monument that does not occupy the same geographical position as the corner itself, but whose spatial relationship to the corner is

recorded and which serves to witness the corner.

(2) (a) Any land surveyor making a boundary survey of lands within this state and utilizing a corner shall, within 90 days, complete, sign, and file with the county surveyor of the county where the corner is situated, a written record to be known as a corner file for every public land survey corner and accessory to the corner which is used as control in any survey by the surveyor, unless the corner and its accessories are already a matter of record in the county.

(b) Where reasonably possible, the corner file shall include the geographic coordinates of the corner.

(c) A surveyor may file a corner record as to any property corner, reference monument, or accessory to a corner.

(d) Corner records may be filed concerning corners used before the effective date of this section.

(3) The county surveyor of the county containing the corners shall have on record as part of the official files maps of each township within the county, the bearings and lengths of the connecting lines to government corners, and government corners looked for and not found.

(4) The county surveyor shall make these records available for public inspection at the county facilities during normal business hours.

(5) Filing fees for corner records shall be established by the county legislative body consistent with existing fees for similar services. All corners, monuments, and their accessories used prior to the effective date of this section shall be accepted and filed with the county surveyor without requiring the payment of the fees.

(6) When a corner record of a public land survey corner is required to be filed under the provisions of this section and the monument needs to be reconstructed or rehabilitated, the land surveyor shall contact the county surveyor in accordance with Section 17-23-14.

(7) A corner record may not be filed unless it is signed by a land surveyor.

(8) All filings relative to official cadastral surveys of the Bureau of Land Management of the United States of America performed by authorized personnel shall be exempt from filing fees.

Section 82. Section **17-23-19** is amended to read:

17-23-19. County permitted to establish Public Land Corner Preservation Fund -- Use of fund -- Fee schedule for filing maps.

(1) The county legislative body may establish by ordinance a fund to be known as the Public Land Corner Preservation Fund. Money generated for the fund shall be used only to pay expenses incurred and authorized by the county surveyor in the establishment, reestablishment, and maintenance of corners of government surveys pursuant to the powers and duties provided under Title 17, Chapter 23, County Surveyor, and Title 57, Chapter 10, Utah Coordinate System.

(2) The county legislative body may by ordinance establish a fee schedule for filing maps in the county surveyor's office of surveys filed under Section 17-23-17, subdivisions, road dedication plats, and other property plats. All money collected under this subsection shall be deposited with the county treasurer to be credited to the Public Land Corner Preservation Fund.

Section 83. Section **17-27a-205** is amended to read:

17-27a-205. Notice of public hearings and public meetings on adoption or modification of land use ordinance.

(1) Each county shall give:

(a) notice of the date, time, and place of the first public hearing to consider the adoption or modification of a land use ordinance; and

(b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be:

(a) mailed to each affected entity at least 10 calendar days before the public hearing;

(b) posted:

(i) in at least three public locations within the county; or

(ii) on the county's official website; and

(c) (i) published:

(A) in a newspaper of general circulation in the area at least 10 calendar days before the public hearing; and

(B) on the Utah Public Notice Website created in Section 63F-1-701, at least 10 calendar days before the public hearing; or

(ii) mailed at least 10 days before the public hearing to:

(A) each property owner whose land is directly affected by the land use ordinance change; and

(B) each adjacent property owner within the parameters specified by county ordinance.

(3) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the hearing and shall be posted:

(a) in at least three public locations within the county; or

(b) on the county's official website.

(4) (a) If a county plans to hold a public hearing in accordance with Section 17-27a-502 to adopt a zoning map or map amendment, the [~~municipality~~] county shall send a courtesy notice to each owner of private real property whose property is located entirely or partially within the proposed map at least 10 days prior to the scheduled day of the public hearing.

(b) The notice shall:

(i) identify with specificity each owner of record of real property that will be affected by the proposed zoning map or map amendments;

(ii) state the current zone in which the real property is located;

(iii) state the proposed new zone for the real property;

(iv) provide information regarding or a reference to the proposed regulations, prohibitions, and permitted uses that the property will be subject to if the zoning map or map amendment is adopted;

(v) state that the owner of real property may no later than 10 days after the day of the first public hearing file a written objection to the inclusion of the owner's property in the proposed zoning map or map amendment;

(vi) state the address where the property owner should file the protest;

(vii) notify the property owner that each written objection filed with the county will be provided to the [~~municipal~~] county legislative body; and

(viii) state the location, date, and time of the public hearing described in Section 17-27a-502.

(c) If a county mails notice to a property owner in accordance with Subsection (2)(c)(ii) for a public hearing on a zoning map or map amendment, the notice required in this Subsection (4) may be included in or part of the notice described in Subsection (2)(c)(ii) rather than sent separately.

Section 84. Section **17-27a-301** is amended to read:

17-27a-301. Ordinance establishing planning commission required -- Exception -- Ordinance requirements -- Township planning commission -- Compensation.

(1) (a) Except as provided in Subsection (1)(b), each county shall enact an ordinance establishing a countywide planning commission for the unincorporated areas of the county not within a township.

(b) Subsection (1)(a) does not apply if all of the county is included within any combination of:

(i) municipalities; and

(ii) townships with their own planning commissions.

(2) (a) The ordinance shall define:

(i) the number and terms of the members and, if the county chooses, alternate members;

(ii) the mode of appointment;

(iii) the procedures for filling vacancies and removal from office;

(iv) the authority of the planning commission;

(v) subject to Subsection (2)(b), the rules of order and procedure for use by the planning commission in a public meeting; and

(vi) other details relating to the organization and procedures of the planning commission.

(b) Subsection (2)(a)(v) does not affect the planning commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

(3) (a) (i) If the county establishes a township planning commission, the county legislative body shall enact an ordinance that defines:

(A) appointment procedures;

(B) procedures for filling vacancies and removing members from office;

(C) subject to Subsection (3)(a)(ii), the rules of order and procedure for use by the township planning commission in a public meeting; and

(D) details relating to the organization and procedures of each township planning commission.

(ii) Subsection (3)(a)(i)(C) does not affect the township planning commission's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

(b) The planning commission for each township shall consist of seven members who, except as provided in Subsection (4), shall be appointed by:

(i) in a county operating under a form of government in which the executive and legislative functions of the governing body are separated, the county executive with the advice and consent of the county legislative body; or

(ii) in a county operating under a form of government in which the executive and legislative functions of the governing body are not separated, the county legislative body.

(c) (i) Members shall serve four-year terms and until their successors are appointed or, as provided in Subsection (4), elected and qualified.

(ii) Notwithstanding the provisions of Subsection (3)(c)(i) and except as provided in Subsection (4), members of the first planning commissions shall be appointed so that, for each commission, the terms of at least one member and no more than two members expire each year.

(d) (i) Except as provided in Subsection (3)(d)(ii), each member of a township planning commission shall be a registered voter residing within the township.

(ii) (A) Notwithstanding Subsection (3)(d)(i), one member of a planning commission of a township reconstituted under Laws of Utah 1997, Chapter 389, or reinstated or established under Subsection 17-27a-306(1)(k)(i) may be an appointed member who is a registered voter residing outside the township if that member:

(I) is an owner of real property located within the township; and

(II) resides within the county in which the township is located.

(B) (I) Each appointee under Subsection (3)(d)(ii)(A) shall be chosen by the township planning commission from a list of three persons submitted by the county legislative body.

(II) If the township planning commission has not notified the county legislative body of its choice under Subsection (3)(d)(ii)(B)(I) within 60 days of the township planning commission's receipt of the list, the county legislative body may appoint one of the three persons on the list or a registered voter residing within the township as a member of the township planning commission.

(4) (a) The legislative body of each county in which a township reconstituted under Laws of Utah 1997, Chapter 389, or reinstated or established under Subsection 17-27a-306(1)[~~(c)~~](k)(i) is located shall on or before January 1, 2012, enact an ordinance that

provides for the election of at least three members of the planning commission of that township.

(b) (i) Beginning with the 2012 general election, the election of planning commission members under Subsection (4)(a) shall coincide with the election of other county officers during even-numbered years.

(ii) Approximately half the elected planning commission members shall be elected every four years during elections held on even-numbered years, and the remaining elected members shall be elected every four years on alternating even-numbered years.

(c) If no person files a declaration of candidacy in accordance with Section 20A-9-202 for an open township planning commission member position:

(i) the position may be appointed in accordance with Subsection (3)(b); and

(ii) a person appointed under Subsection (4)(c)(i) may not serve for a period of time that exceeds the elected term for which there was no candidate.

(5) (a) A legislative body described in Subsection (4)(a) shall on or before January 1, 2012, enact an ordinance that:

(i) designates the seats to be elected; and

(ii) subject to Subsection (6)(b), appoints a member of the planning and zoning board of the former township, established under Laws of Utah 1996, Chapter 308, as a member of the planning commission of the reconstituted or reinstated township.

(b) A member appointed under Subsection (5)(a) is considered an elected member.

(6) (a) Except as provided in Subsection (6)(b), the term of each member appointed under Subsection (5)(a) shall continue until the time that the member's term as an elected member of the former township planning and zoning board would have expired.

(b) (i) Notwithstanding Subsection (6)(a), the county legislative body may adjust the terms of the members appointed under Subsection (5)(a) so that the terms of those members coincide with the schedule under Subsection (4)(b) for elected members.

(ii) Subject to Subsection (6)(b)(iii), the legislative body of a county in which a township reconstituted under Laws of Utah 1997, Chapter 389, or reinstated or established under Subsection 17-27a-306(1)[~~(c)~~](k)(i) is located may enact an ordinance allowing each appointed member of the planning and zoning board of the former township, established under Laws of Utah 1996, Chapter 308, to continue to hold office as a member of the planning

commission of the reconstituted or reinstated township until the time that the member's term as a member of the former township's planning and zoning board would have expired.

(iii) If a planning commission of a township reconstituted under Laws of Utah 1997, Chapter 389, or reinstated or established under Subsection 17-27a-306(1)[~~(c)~~](k)(i) has more than one appointed member who resides outside the township, the legislative body of the county in which that township is located shall, within 15 days of the effective date of this Subsection (6)(b)(iii), dismiss all but one of the appointed members who reside outside the township, and a new member shall be appointed under Subsection (3)(b) to fill the position of each dismissed member.

(7) (a) Except as provided in Subsection (7)(b), upon the appointment or election of all members of a township planning commission, each township planning commission under this section shall begin to exercise the powers and perform the duties provided in Section 17-27a-302 with respect to all matters then pending that previously had been under the jurisdiction of the countywide planning commission or township planning and zoning board.

(b) Notwithstanding Subsection (7)(a), if the members of a former township planning and zoning board continue to hold office as members of the planning commission of the township planning district under an ordinance enacted under Subsection (5)(a), the township planning commission shall immediately begin to exercise the powers and perform the duties provided in Section 17-27a-302 with respect to all matters then pending that had previously been under the jurisdiction of the township planning and zoning board.

(8) The legislative body may fix per diem compensation for the members of the planning commission, based on necessary and reasonable expenses and on meetings actually attended.

Section 85. Section **17-27a-512** is amended to read:

17-27a-512. County's acquisition of billboard by eminent domain -- Removal without providing compensation -- Limit on allowing nonconforming billboard to be rebuilt or replaced -- Validity of county permit after issuance of state permit.

(1) As used in this section:

(a) "Clearly visible" means capable of being read without obstruction by an occupant of a vehicle traveling on a street or highway within the visibility area.

(b) "Highest allowable height" means:

(i) if the height allowed by the county, by ordinance or consent, is higher than the height under Subsection (1)(b)(ii), the height allowed by the county; or

(ii) (A) for a noninterstate billboard:

(I) if the height of the previous use or structure is 45 feet or higher, the height of the previous use or structure; or

(II) if the height of the previous use or structure is less than 45 feet, the height of the previous use or structure or the height to make the entire advertising content of the billboard clearly visible, whichever is higher, but no higher than 45 feet; and

(B) for an interstate billboard:

(I) if the height of the previous use or structure is at or above the interstate height, the height of the previous use or structure; or

(II) if the height of the previous use or structure is less than the interstate height, the height of the previous use or structure or the height to make the entire advertising content of the billboard clearly visible, whichever is higher, but no higher than the interstate height.

(c) "Interstate billboard" means a billboard that is intended to be viewed from a highway that is an interstate.

(d) "Interstate height" means a height that is the higher of:

(i) 65 feet above the ground; and

(ii) 25 feet above the grade of the interstate.

(e) "Noninterstate billboard" means a billboard that is intended to be viewed from a street or highway that is not an interstate.

(f) "Visibility area" means the area on a street or highway that is:

(i) defined at one end by a line extending from the base of the billboard across all lanes of traffic of the street or highway in a plane that is perpendicular to the street or highway; and

(ii) defined on the other end by a line extending across all lanes of traffic of the street or highway in a plane that is:

(A) perpendicular to the street or highway; and

(B) (I) for an interstate billboard, 500 feet from the base of the billboard; or

(II) for a noninterstate billboard, 300 feet from the base of the billboard.

(2) (a) A county is considered to have initiated the acquisition of a billboard structure by eminent domain if the county prevents a billboard owner from:

(i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged by casualty, an act of God, or vandalism;

(ii) except as provided in Subsection (2)(c), relocating or rebuilding a billboard structure, or taking other measures, to correct a mistake in the placement or erection of a billboard for which the county has issued a permit, if the proposed relocation, rebuilding, or other measure is consistent with the intent of that permit;

(iii) structurally modifying or upgrading a billboard;

(iv) relocating a billboard into any commercial, industrial, or manufacturing zone within the unincorporated area of the county, if:

(A) the relocated billboard is:

(I) within 5,280 feet of its previous location; and

(II) no closer than:

(Aa) 300 feet from an off-premise sign existing on the same side of the street or highway; or

(Bb) if the street or highway is an interstate or limited access highway that is subject to Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the distance allowed under that act between the relocated billboard and an off-premise sign existing on the same side of the interstate or limited access highway; and

(B) (I) the billboard owner has submitted a written request under Subsection 17-27a-510(3)(c); and

(II) the county and billboard owner are unable to agree, within the time provided in Subsection 17-27a-510(3)(c), to a mutually acceptable location; or

(v) making the following modifications, as the billboard owner determines, to a billboard that is structurally modified or upgraded under Subsection (2)(a)(iii) or relocated under Subsection (2)(a)(iv):

(A) erecting the billboard:

(I) to the highest allowable height; and

(II) as the owner determines, to an angle that makes the entire advertising content of the billboard clearly visible; and

(B) installing a sign face on the billboard that is at least the same size as, but no larger than, the sign face on the billboard before its relocation.

(b) A modification under Subsection [~~(1)~~] (2)(a)(v) shall comply with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, to the extent applicable.

(c) A county's denial of a billboard owner's request to relocate or rebuild a billboard structure, or to take other measures, in order to correct a mistake in the placement or erection of a billboard does not constitute the initiation of acquisition by eminent domain under Subsection (2)(a) if the mistake in placement or erection of the billboard is determined by clear and convincing evidence to have resulted from an intentionally false or misleading statement:

(i) by the billboard applicant in the application; and

(ii) regarding the placement or erection of the billboard.

(d) If a county is considered to have initiated the acquisition of a billboard structure by eminent domain under Subsection (1)(a) or any other provision of applicable law, the county shall pay just compensation to the billboard owner in an amount that is:

(i) the value of the existing billboard at a fair market capitalization rate, based on actual annual revenue, less any annual rent expense;

(ii) the value of any other right associated with the billboard structure that is acquired;

(iii) the cost of the sign structure; and

(iv) damage to the economic unit described in Subsection 72-7-510(3)(b), of which the billboard owner's interest is a part.

(3) Notwithstanding Subsection (2) and Section 17-27a-511, a county may remove a billboard without providing compensation if:

(a) the county determines:

(i) by clear and convincing evidence that the applicant for a permit intentionally made a false or misleading statement in the applicant's application regarding the placement or erection of the billboard; or

(ii) by substantial evidence that the billboard:

(A) is structurally unsafe;

(B) is in an unreasonable state of repair; or

(C) has been abandoned for at least 12 months;

(b) the county notifies the owner in writing that the owner's billboard meets one or more of the conditions listed in Subsections (3)(a)(i) and (ii);

(c) the owner fails to remedy the condition or conditions within:

(i) except as provided in Subsection (3)(c)(ii), 90 days following the billboard owner's receipt of written notice under Subsection (3)(b); or

(ii) if the condition forming the basis of the county's intention to remove the billboard is that it is structurally unsafe, 10 business days, or a longer period if necessary because of a natural disaster, following the billboard owner's receipt of written notice under Subsection (3)(b); and

(d) following the expiration of the applicable period under Subsection (3)(c) and after providing the owner with reasonable notice of proceedings and an opportunity for a hearing, the county finds:

(i) by clear and convincing evidence, that the applicant for a permit intentionally made a false or misleading statement in the application regarding the placement or erection of the billboard; or

(ii) by substantial evidence that the billboard is structurally unsafe, is in an unreasonable state of repair, or has been abandoned for at least 12 months.

(4) A county may not allow a nonconforming billboard to be rebuilt or replaced by anyone other than its owner or the owner acting through its contractors.

(5) A permit issued, extended, or renewed by a county for a billboard remains valid from the time the county issues, extends, or renews the permit until 180 days after a required state permit is issued for the billboard if:

(a) the billboard requires a state permit; and

(b) an application for the state permit is filed within 30 days after the county issues, extends, or renews a permit for the billboard.

Section 86. Section **17-36-3** is amended to read:

17-36-3. Definitions.

As used in this chapter:

(1) "Accrual basis of accounting" means a method where revenues are recorded when earned and expenditures recorded when they become liabilities notwithstanding that the receipt of the revenue or payment of the expenditure may take place in another accounting period.

(2) "Appropriation" means an allocation of money for a specific purpose.

(3) (a) "Budget" means a plan for financial operations for a fiscal period, embodying estimates for proposed expenditures for given purposes and the means of financing the

expenditures.

(b) "Budget" may refer to the budget of a fund for which a budget is required by law, or collectively to the budgets for all those funds.

(4) "Budgetary fund" means a fund for which a budget is required, such as those described in Section 17-36-8.

(5) "Budget officer" means:

(a) for a county of the second, third, fourth, fifth, or sixth class, the county auditor, county clerk, or county executive as provided in Subsection 17-19-19(1); or

(b) for a county of the first class, a person described in Section 17-19a-203.

(6) "Budget period" means the fiscal period for which a budget is prepared.

(7) "Check" means an order in a specific amount drawn upon the depositary by any authorized officer in accordance with Section 17-19-3, 17-19a-301, 17-24-1, or [~~17-24-1.1~~] 17-24-4, as applicable.

(8) "Countywide service" means a service provided in both incorporated and unincorporated areas of a county.

(9) "Current period" means the fiscal period in which a budget is prepared and adopted.

(10) "Department" means any functional unit within a fund which carries on a specific activity.

(11) "Encumbrance system" means a method of budgetary control where part of an appropriation is reserved to cover a specific expenditure by charging obligations, such as purchase orders, contracts, or salary commitments to an appropriation account. An expenditure ceases to be an encumbrance when paid or when the actual liability is entered in the books of account.

(12) "Estimated revenue" means any revenue estimated to be received during the budget period in any fund for which a budget is prepared.

(13) "Fiscal period" means the annual or biennial period for recording county fiscal operations.

(14) "Fund" means an independent fiscal and accounting entity comprised of a sum of money or other resources segregated for a specific purpose or objective.

(15) "Fund balance" means the excess of the assets over liabilities, reserves, and contributions, as reflected by its books of account.

(16) "Fund deficit" means the excess of liabilities, reserves, and contributions over its assets, as reflected by its books of account.

(17) "General Fund" means the fund used to account for all receipts, disbursements, assets, liabilities, reserves, fund balances, revenues, and expenditures not required to be accounted for in other funds.

(18) "Interfund loan" means a loan of cash from one fund to another, subject to future repayment; but it does not constitute an expenditure or a use of retained earnings, fund balance, or unappropriated surplus of the lending fund.

(19) "Last completed fiscal period" means the fiscal period next preceding the current period.

(20) "Modified accrual basis of accounting" means a method under which expenditures other than accrued interest on general long-term debt are recorded at the time liabilities are incurred and revenues are recorded when they become measurable and available to finance expenditures of the current period.

(21) "Municipal capital project" means the acquisition, construction, or improvement of capital assets that facilitate providing municipal service.

(22) "Municipal service" means a service not provided on a countywide basis and not accounted for in an enterprise fund, and includes police patrol, fire protection, culinary or irrigation water retail service, water conservation, local parks, sewers, sewage treatment and disposal, cemeteries, garbage and refuse collection, street lighting, airports, planning and zoning, local streets and roads, curb, gutter, and sidewalk maintenance, and ambulance service.

(23) "Retained earnings" means that part of the net earnings retained by an enterprise or internal service fund which is not segregated or reserved for any specific purpose.

(24) "Special fund" means any fund other than the General Fund, such as those described in Section 17-36-6.

(25) "Unappropriated surplus" means that part of a fund which is not appropriated for an ensuing budget period.

(26) "Warrant" means an order in a specific amount drawn upon the treasurer by the auditor.

Section 87. Section **17-36-39** is amended to read:

17-36-39. Independent audits.

Independent audits are required for all counties as provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Section 88. Section **17-53-301** is amended to read:

17-53-301. General powers, duties, and functions of county executive.

(1) The elected county executive is the chief executive officer of the county.

(2) Except as expressly provided otherwise in statute and except as contrary to the powers, duties, and functions of other county officers expressly provided for in [~~Chapters 16, 17, 18, 19, 20, 21, 22, 23, and 24~~] Chapter 16, County Officers; Chapter 17, County Assessor; Chapter 18a, Powers and Duties of County and District Attorney; Chapter 19, County Auditor; Chapter 19a, County Auditor; Chapter 20, County Clerk; Chapter 21, Recorder; Chapter 22, Sheriff; Chapter 23, County Surveyor; and Chapter 24, County Treasurer, each county executive shall exercise all executive powers, have all executive duties, and perform all executive functions of the county, including those enumerated in this part.

(3) A county executive may take any action required by law and necessary to the full discharge of the executive's duties, even though the action is not expressly authorized in statute.

Section 89. Section **17B-1-121** is amended to read:

17B-1-121. Limit on fees -- Requirement to itemize and account for fees -- Appeals.

(1) A local district may not impose or collect:

(a) an application fee that exceeds the reasonable cost of processing the application; or

(b) an inspection or review fee that exceeds the reasonable cost of performing an inspection or review.

(2) (a) Upon request by a service applicant who is charged a fee or an owner of residential property upon which a fee is imposed, a local district shall provide a statement of each itemized fee and calculation method for each fee.

(b) If an applicant who is charged a fee or an owner of residential property upon which a fee is imposed submits a request for a statement of each itemized fee no later than 30 days after the day on which the applicant or owner pays the fee, the local district shall, no later than 10 days after the day on which the request is received, provide or commit to provide within a

specific time:

(i) for each fee, any studies, reports, or methods relied upon by the local district to create the calculation method described in Subsection (2)(a);

(ii) an accounting of each fee paid;

(iii) how each fee will be distributed by the local district; and

(iv) information on filing a fee appeal through the process described in Subsection (2)(c).

(c) (i) A local district shall establish an impartial fee appeal process to determine whether a fee reflects only the reasonable estimated cost of delivering the service for which the fee was paid.

(ii) A party to a fee appeal described in Subsection (2)(c)(i) may petition for judicial review of the local district's final decision.

(3) A local district may not impose on or collect from a public agency a fee associated with the public agency's development of the public agency's land other than:

(a) subject to Subsection (1), a hookup fee; or

(b) an impact fee, as defined in Section [~~11-36-102~~] 11-36a-102 and subject to Section [~~11-36-202~~] 11-36a-402, for a public facility listed in Subsection [~~11-36-102(13)~~] 11-36a-102(16)(a), (b), (c), (d), (e), or (g).

Section 90. Section **17B-1-512** is amended to read:

17B-1-512. Filing of notice and plat -- Recording requirements -- Contest period -- Judicial review.

(1) (a) Within the time specified in Subsection (1)(b), the board of trustees shall file with the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

(b) The board of trustees shall file the documents listed in Subsection (1)(a):

(i) within 10 days after adopting a resolution approving a withdrawal under Section 17B-1-510; and

(ii) as soon as practicable after receiving a notice under Subsection 10-2-425(2) of an automatic withdrawal under Subsection 17B-1-502(2), after receiving a copy of the municipal

legislative body's resolution approving an automatic withdrawal under Subsection 17B-1-502(3)(a), or after receiving notice of a withdrawal of a municipality from a local district under Section [~~17B-2-505~~] 17B-1-502.

(c) Upon the lieutenant governor's issuance of a certificate of withdrawal under Section 67-1a-6.5, the board shall:

(i) if the withdrawn area is located within the boundary of a single county, submit to the recorder of that county:

(A) the original:

(I) notice of an impending boundary action;

(II) certificate of withdrawal; and

(III) approved final local entity plat; and

(B) if applicable, a certified copy of the resolution or notice referred to in Subsection (1)(b); or

(ii) if the withdrawn area is located within the boundaries of more than a single county, submit:

(A) the original of the documents listed in Subsections (1)(c)(i)(A)(I), (II), and (III) and, if applicable, a certified copy of the resolution or notice referred to in Subsection (1)(b) to one of those counties; and

(B) a certified copy of the documents listed in Subsections (1)(c)(i)(A)(I), (II), and (III) and a certified copy of the resolution or notice referred to in Subsection (1)(b) to each other county.

(2) (a) Upon the lieutenant governor's issuance of the certificate of withdrawal under Section 67-1a-6.5 for a withdrawal under Section 17B-1-510, for an automatic withdrawal under Subsection 17B-1-502(3), or for the withdrawal of a municipality from a local district under Section 17B-1-505, the withdrawal shall be effective, subject to the conditions of the withdrawal resolution, if applicable.

(b) An automatic withdrawal under Subsection 17B-1-502(3) shall be effective upon the lieutenant governor's issuance of a certificate of withdrawal under Section 67-1a-6.5.

(3) (a) The local district may provide for the publication of any resolution approving or denying the withdrawal of an area:

(i) in a newspaper of general circulation in the area proposed for withdrawal; and

(ii) as required in Section 45-1-101.

(b) In lieu of publishing the entire resolution, the local district may publish a notice of withdrawal or denial of withdrawal, containing:

(i) the name of the local district;

(ii) a description of the area proposed for withdrawal;

(iii) a brief explanation of the grounds on which the board of trustees determined to approve or deny the withdrawal; and

(iv) the times and place where a copy of the resolution may be examined, which shall be at the place of business of the local district, identified in the notice, during regular business hours of the local district as described in the notice and for a period of at least 30 days after the publication of the notice.

(4) Any sponsor of the petition or receiving entity may contest the board's decision to deny a withdrawal of an area from the local district by submitting a request, within 60 days after the resolution is adopted under Section 17B-1-510, to the board of trustees, suggesting terms or conditions to mitigate or eliminate the conditions upon which the board of trustees based its decision to deny the withdrawal.

(5) Within 60 days after the request under Subsection (4) is submitted to the board of trustees, the board may consider the suggestions for mitigation and adopt a resolution approving or denying the request in the same manner as provided in Section 17B-1-510 with respect to the original resolution denying the withdrawal and file a notice of the action as provided in Subsection (1).

(6) (a) Any person in interest may seek judicial review of:

(i) the board of trustees' decision to withdraw an area from the local district;

(ii) the terms and conditions of a withdrawal; or

(iii) the board's decision to deny a withdrawal.

(b) Judicial review under this Subsection (6) shall be initiated by filing an action in the district court in the county in which a majority of the area proposed to be withdrawn is located:

(i) if the resolution approving or denying the withdrawal is published under Subsection (3), within 60 days after the publication or after the board of trustees' denial of the request under Subsection (5);

(ii) if the resolution is not published pursuant to Subsection (3), within 60 days after

the resolution approving or denying the withdrawal is adopted; or

(iii) if a request is submitted to the board of trustees of a local district under Subsection (4), and the board adopts a resolution under Subsection (5), within 60 days after the board adopts a resolution under Subsection (5) unless the resolution is published under Subsection (3), in which event the action shall be filed within 60 days after the publication.

(c) A court in which an action is filed under this Subsection (6) may not overturn, in whole or in part, the board of trustees' decision to approve or reject the withdrawal unless:

(i) the court finds the board of trustees' decision to be arbitrary or capricious; or

(ii) the court finds that the board materially failed to follow the procedures set forth in this part.

(d) A court may award costs and expenses of an action under this section, including reasonable attorney fees, to the prevailing party.

(7) After the applicable contest period under Subsection (4) or (6), no person may contest the board of trustees' approval or denial of withdrawal for any cause.

Section 91. Section **17B-2a-902** is amended to read:

17B-2a-902. Provisions applicable to service areas.

(1) Each service area is governed by and has the powers stated in:

(a) this part; and

(b) except as provided in Subsection (5), Chapter 1, Provisions Applicable to All Local Districts.

(2) This part applies only to service areas.

(3) A service area is not subject to the provisions of any other part of this chapter.

(4) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Local Districts, and a provision in this part, the provision in this part governs.

(5) (a) Except as provided in Subsection (5)(b), on or after December 31, 2012, a service area may not charge or collect a fee under Section 17B-1-643 for:

(i) law enforcement services;

(ii) fire protection services;

(iii) 911 ambulance or paramedic services as defined in Section 26-8a-102 that are provided under a contract in accordance with Section 26-8a-405.2; or

(iv) emergency services.

(b) Subsection (5)(a) does not apply to:

(i) a fee charged or collected on an individual basis rather than a general basis;

(ii) a non-911 service as defined in Section 26-8a-102 that is provided under a contract in accordance with Section 26-8a-405.2;

(iii) an impact fee charged or collected for a public safety facility as defined in Section [~~11-36-102~~] 11-36a-102; or

(iv) a service area that includes within the boundary of the service area a county of the fifth or sixth class.

Section 92. Section **17B-2a-905** is amended to read:

17B-2a-905. Service area board of trustees.

(1) (a) Except as provided in Subsection (2) or (3):

(i) the initial board of trustees of a service area located entirely within the unincorporated area of a single county may, as stated in the petition or resolution that initiated the process of creating the service area:

(A) consist of the county legislative body;

(B) be appointed, as provided in Section 17B-1-304; or

(C) be elected, as provided in Section 17B-1-306;

(ii) if the board of trustees of a service area consists of the county legislative body, the board may adopt a resolution providing for future board members to be appointed, as provided in Section 17B-1-304, or elected, as provided in Section 17B-1-306; and

(iii) members of the board of trustees of a service area shall be elected, as provided in Section 17B-1-306, if:

(A) the service area is not entirely within the unincorporated area of a single county;

(B) a petition is filed with the board of trustees requesting that board members be elected, and the petition is signed by registered voters within the service area equal in number to at least 10% of the number of registered voters within the service area who voted at the last gubernatorial election; or

(C) an election is held to authorize the service area's issuance of bonds.

(b) If members of the board of trustees of a service area are required to be elected under Subsection (1)(a)(iii)(C) because of a bond election:

(i) board members shall be elected in conjunction with the bond election;

(ii) the board of trustees shall:

(A) establish a process to enable potential candidates to file a declaration of candidacy sufficiently in advance of the election; and

(B) provide a ballot for the election of board members separate from the bond ballot; and

(iii) except as provided in this Subsection (1)(b), the election shall be held as provided in Section 17B-1-306.

(2) (a) This Subsection (2) applies to a service area created on or after May 5, 2003, if:

(i) the service area was created to provide:

(A) fire protection, paramedic, and emergency services; or

(B) law enforcement service;

(ii) in the creation of the service area, an election was not required under Subsection 17B-1-214(3)(d); and

(iii) the service area is not a service area described in Subsection (3).

(b) (i) Each county whose unincorporated area is included within a service area described in Subsection (2)(a), whether in conjunction with the creation of the service area or by later annexation, shall appoint three members to the board of trustees.

(ii) Each municipality whose area is included within a service area described in Subsection (2)(a), whether in conjunction with the creation of the service area or by later annexation, shall appoint one member to the board of trustees.

(iii) Each member appointed by a county or municipality under Subsection (2)(b)(i) or (ii) shall be an elected official of the appointing county or municipality, respectively.

(c) Notwithstanding Subsection 17B-1-302(2), the number of members of a board of trustees of a service area described in Subsection (2)(a) shall be the number resulting from application of Subsection (2)(b).

(3) (a) This Subsection (3) applies to a service area created on or after May 14, 2013, if:

(i) the service area was created to provide fire protection, paramedic, and emergency services;

(ii) in the creation of the service area, an election was not required under Subsection [~~17B-1-213~~] 17B-1-214(3)(d); and

(iii) each municipality whose area is included within the service area or county whose unincorporated area, whether in whole or in part, is included within a service area is a party to an agreement:

(A) entered into in accordance with Title 11, Chapter 13, Interlocal Cooperation Act with all the other municipalities or counties whose area is included in the service area;

(B) to provide the services described in Subsection (3)(a)(i); and

(C) at the time a resolution proposing the creation of the service area is adopted by each applicable municipal or county legislative body in accordance with Subsection 17B-1-203(1)(d).

(b) (i) Each county whose unincorporated area, whether in whole or in part, is included within a service area described in Subsection (3)(a), whether in conjunction with the creation of the service area or by later annexation, shall appoint one member to the board of trustees.

(ii) Each municipality whose area is included within a service area described in Subsection (3)(a), whether in conjunction with the creation of the service area or by later annexation, shall appoint one member to the board of trustees.

(iii) Each member appointed by a county or municipality under Subsection (3)(b)(i) or (ii) shall be an elected official of the appointing county or municipality, respectively.

(iv) A vote by a member of the board of trustees may be weighted or proportional.

(c) Notwithstanding Subsection 17B-1-302(2), the number of members of a board of trustees of a service area described in Subsection (3)(a) shall be the number resulting from the application of Subsection (3)(b).

Section 93. Section **17C-4-202** is amended to read:

17C-4-202. Resolution or interlocal agreement to provide funds for the community development project area plan -- Notice -- Effective date of resolution or interlocal agreement -- Time to contest resolution or interlocal agreement -- Availability of resolution or interlocal agreement.

(1) The approval and adoption of each resolution or interlocal agreement under Subsection 17C-4-201(2) shall be in an open and public meeting.

(2) (a) Upon the adoption of a resolution or interlocal agreement under Section 17C-4-201, the agency shall provide notice as provided in Subsection (2)(b) by:

(i) (A) publishing or causing to be published a notice in a newspaper of general

circulation within the agency's boundaries; or

(B) if there is no newspaper of general circulation within the agency's boundaries, causing a notice to be posted in at least three public places within the agency's boundaries; and

(ii) publishing or causing to be published a notice on the Utah Public Notice Website created in Section 63F-1-701.

(b) Each notice under Subsection (2)(a) shall:

(i) set forth a summary of the resolution or interlocal agreement; and

(ii) include a statement that the resolution or interlocal agreement is available for general public inspection and the hours of inspection.

(3) The resolution or interlocal agreement shall become effective on the date of:

(a) if notice was published under Subsection (2)(a)(i)(A) or (2)(a)(ii), publication of the notice; or

(b) if notice was posted under Subsection (2)(a)(i)(B), posting of the notice.

(4) (a) For a period of 30 days after the effective date of the resolution or interlocal agreement under Subsection (3), any person in interest may contest the resolution or interlocal agreement or the procedure used to adopt the resolution or interlocal agreement if the resolution or interlocal agreement or procedure fails to comply with applicable statutory requirements.

(b) After the 30-day period under Subsection (4)(a) expires, a person may not, for any cause, contest:

(i) the resolution or interlocal agreement;

(ii) a payment to the agency under the resolution or interlocal agreement; or

(iii) the agency's use of tax increment under the resolution or interlocal agreement.

(5) Each agency that is to receive funds under a resolution or interlocal agreement under Section 17C-4-201 and each taxing entity or public entity that approves a resolution or enters into an interlocal agreement under Section 17C-4-201 shall make the resolution or interlocal agreement, as the case may be, available at its offices to the general public for inspection and copying during normal business hours.

Section 94. Section **17D-3-105** is amended to read:

17D-3-105. Conservation districts subject to other provisions.

(1) A conservation district is, to the same extent as if it were a local district, subject to

and governed by:

(a) Sections 17B-1-105, 17B-1-107, 17B-1-108, [~~17B-1-109,~~] 17B-1-110, 17B-1-112, 17B-1-113, 17B-1-116, 17B-1-121, 17B-1-307, 17B-1-311, 17B-1-313, and 17B-1-314;

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

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

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

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

(2) For purposes of applying the provisions listed in Subsection (1) to a conservation district, each reference in those provisions to the local district board of trustees means the board of supervisors described in Section 17D-3-301.

Section 95. Section **20A-1-306** is amended to read:

20A-1-306. Electronic signatures prohibited.

Notwithstanding Title 46, Chapter 4, Uniform Electronic Transactions Act, and Subsections 68-3-12(1)(e) and 68-3-12.5[~~(24)~~](26) and [~~(33)~~] (35), an electronic signature may not be used to sign a petition to:

(1) qualify a ballot proposition for the ballot under Chapter 7, Issues Submitted to the Voters;

(2) organize and register a political party under Chapter 8, Political Party Formation and Procedures; or

(3) qualify a candidate for the ballot under Chapter 9, Candidate Qualifications and Nominating Procedures.

Section 96. Section **26-28-112** is amended to read:

26-28-112. Search and notification.

(1) The following persons shall make a reasonable search of an individual who the person reasonably believes is dead or near death for a document of gift or other information identifying the individual as a donor or as an individual who made a refusal:

(a) a law enforcement officer, firefighter, paramedic, or other emergency rescuer finding the individual;

(b) if no other source of the information is immediately available, a hospital, as soon as practical after the individual's arrival at the hospital; and

(c) a law enforcement officer, firefighter, emergency medical services provider, or

other emergency rescuer who finds an individual who is deceased at the scene of a motor vehicle accident, when the deceased individual is transported from the scene of the accident to a funeral establishment licensed under Title 58, Chapter 9, Funeral Services Licensing Act:

(i) the law enforcement officer, firefighter, emergency medical services provider, or other emergency rescuer shall as soon as reasonably possible, notify the appropriate organ procurement organization, tissue bank, or eye bank of:

(A) the identity of the deceased individual, if known;

(B) information, if known, pertaining to the deceased individual's legal next-of-kin in accordance with Section 26-28-109; and

(C) the name and location of the funeral establishment which received custody of and transported the deceased individual; and

(ii) the funeral establishment receiving custody of the deceased individual under this Subsection (1)(c) may not embalm the body of the deceased individual until:

(A) the funeral establishment receives notice from the organ procurement organization, tissue bank, or eye bank that the readily available persons listed as having priority in Section 26-28-109 have been informed by the organ procurement organization of the option to make or refuse to make an anatomical gift in accordance with Section [~~26-28-4~~] 26-28-104, with reasonable discretion and sensitivity appropriate to the circumstances of the family;

(B) in accordance with federal law, prior approval for embalming has been obtained from a family member or other authorized person; and

(C) the period of time in which embalming is prohibited under Subsection (1)(c)(ii) may not exceed 24 hours after death.

(2) If a document of gift or a refusal to make an anatomical gift is located by the search required by Subsection (1)(a) and the individual or deceased individual to whom it relates is taken to a hospital, the person responsible for conducting the search shall send the document of gift or refusal to the hospital.

(3) A person is not subject to criminal or civil liability for failing to discharge the duties imposed by this section but may be subject to administrative sanctions.

Section 97. Section **36-23-109** is amended to read:

36-23-109. Review of state regulation of occupations and professions.

Before the annual written report described in Section [~~36-23-107~~] 36-23-106 is

submitted for 2013, the committee shall study potentially less restrictive alternatives to licensing for the regulation of occupations and professions, including registration and certification if appropriate, that would better avoid unnecessary regulation and intrusion upon individual liberties by the state, while still protecting the health and safety of the public.

Section 98. Section **38-8-3.5** is amended to read:

38-8-3.5. Right to tow certain vehicles subject to lien.

(1) If the property subject to a lien described in Section 38-3-2 is a vehicle, the occupant is in default for a continuous 60-day period, and the owner chose not to sell the vehicle under Section 38-8-3, the owner may have the vehicle towed from the [~~self-storage~~] self-service storage facility by an independent towing carrier that is certified by the Department of Transportation as described in Section 72-9-602.

(2) Within one day after the day on which a vehicle is towed under Subsection (1), the owner shall send written notice by certified mail, postage prepaid, to the occupant's last known address that states:

(a) the date the vehicle was towed; and

(b) the address and telephone number of the person that towed the vehicle.

(3) An owner that has a vehicle towed under Subsection (1) is not liable for any damage that occurs to the vehicle after the independent towing carrier takes possession of the vehicle.

Section 99. Section **39-6-36** is amended to read:

39-6-36. Desertion or absence without leave and other offenses -- Time limit on trial -- Tolling of time limits.

(1) A person charged with desertion or absence without leave may be tried and punished at any time, within four years after the preferral of charges.

(2) Except under Subsection (1), a person charged with any offense is not liable to be tried by a military court or punished under Section [~~39-6-13~~] 39-6-14 if the offense was committed more than two years before the receipt of sworn charges and specifications by an officer exercising jurisdiction as a military court convening authority.

(3) Periods when the accused was outside the state's jurisdiction to apprehend him, or when he is in the custody of civilian authorities, are excluded in computing limitations of time under this section.

Section 100. Section **48-1d-1305** is amended to read:

48-1d-1305. Limit of one profession.

(1) A professional services partnership organized to provide a professional service under this part may provide only:

(a) one specific type of professional service; and

(b) services ancillary to the professional service described in Subsection (1)(a).

(2) A professional services partnership organized to provide a professional service under this part may not engage in a business other than to provide:

(a) the professional service that it was organized to provide; and

(b) services ancillary to the professional service described in Subsection (2)(a).

(3) Notwithstanding Subsections (1) and (2), a professional services partnership may:

(a) own real and personal property necessary or appropriate for providing the type of professional service it was organized to provide; and

(b) invest the professional services partnership's money in one or more of the following:

(i) real estate;

(ii) mortgages;

(iii) stocks;

[~~(vi)~~] (iv) bonds; or

(v) another type of investment.

Section 101. Section **53-5-707** is amended to read:

53-5-707. Concealed firearm permit -- Fees -- Disposition.

(1) (a) Each applicant for a concealed firearm permit shall pay a fee of $29.75 at the time of filing an application, except that a nonresident applicant shall pay an additional $5 for the additional cost of processing a nonresident application.

(b) The bureau shall waive the initial fee for an applicant who is a law enforcement officer under Section 53-13-103.

(c) Concealed firearm permit renewal fees for active duty servicemembers and [~~spouses~~] the spouse of an active duty servicemember shall be waived.

(2) The renewal fee for the permit is $15.

(3) The replacement fee for the permit is $10.

(4) (a) The late fee for the renewal permit is $7.50.

(b) As used in this section, "late fee" means the fee charged by the bureau for a renewal submitted on a permit that has been expired for more than 30 days but less than one year.

(5) The bureau shall use the fees collected under Subsections (1), (2), (3), and (4) as a dedicated credit to cover the costs of issuing concealed firearm permits under this part.

(6) (a) The bureau may collect any fees charged by an outside agency for additional services required by statute as a prerequisite for issuance of a permit.

(b) The bureau may modify the fee under Subsection (1)(a) by adjusting that fee so that the total of the fee under Subsection (1)(a) and the fee under Subsection (6)(a) is the nearest even dollar amount to that total.

(c) The bureau shall promptly forward any fees collected under Subsection (6)(a) to the appropriate agency.

(7) The bureau shall make an annual report in writing to the Legislature's Law Enforcement and Criminal Justice Interim Committee on the amount and use of the fees collected under this section.

Section 102. Section **53-13-110** is amended to read:

53-13-110. Duties to investigate specified instances of abuse or neglect.

In accordance with the requirements of Section [~~62A-4a-202.5~~] 62A-4a-202.6, law enforcement officers shall investigate alleged instances of abuse or neglect of a child that occur while the child is in the custody of the Division of Child and Family Services, within the Department of Human Services.

Section 103. Section **53A-1a-521** is amended to read:

53A-1a-521. Authorization of a charter school by a board of trustees of a higher education institution.

(1) Subject to the approval of the State Board of Education and except as provided in Subsection (8), an individual or entity identified in Section 53A-1a-504 may enter into an agreement with a board of trustees of a higher education institution authorizing the individual or entity to establish and operate a charter school.

(2) (a) An individual or entity identified in Section 53A-1a-504 applying for authorization from a board of trustees of a higher education institution to establish and operate a charter school shall provide a copy of the application to the State Charter School Board and

the local school board of the school district in which the proposed charter school shall be located either before or at the same time it files its application with the board of trustees.

(b) The State Charter School Board and the local school board may review the application and may offer suggestions or recommendations to the applicant or the board of trustees of a higher education institution prior to its acting on the application.

(c) The board of trustees of a higher education institution shall give due consideration to suggestions or recommendations made by the State Charter School Board or the local school board under Subsection (2)(b).

(3) (a) If a board of trustees of a higher education institution approves an application to establish and operate a charter school, the board of trustees shall submit the application to the State Board of Education.

(b) The State Board of Education shall, by majority vote, within 60 days of receipt of the application approve or deny an application approved by a board of trustees of a higher education institution.

(c) The State Board of Education's action under Subsection (3)(b) is final action subject to judicial review.

(4) The State Board of Education shall make a rule providing a timeline for the opening of a charter school following the approval of a charter school application by a board of trustees of a higher education institution.

(5) (a) After approval of a charter school application, the applicant and the board of trustees of a higher education institution shall set forth the terms and conditions for the operation of the charter school in a written contractual agreement.

(b) The agreement is the school's charter.

(6) (a) The school's charter may include a provision that the charter school pay an annual fee for the board of trustees' costs in providing oversight of, and technical support to, the charter school in accordance with Subsection (7).

(b) In the first two years that a charter school is in operation, an annual fee described in Subsection (6)(a) may not exceed the product of 3% of the revenue the charter school receives from the state in the current fiscal year.

(c) Beginning with the third year that a charter school is in operation, an annual fee described in Subsection (6)(a) may not exceed the product of 1% of the revenue a charter

school receives from the state in the current fiscal year.

(d) An annual fee described in Subsection (6)(a) shall be:

(i) paid to the board of trustees' higher education institution; and

(ii) expended as directed by the board of trustees.

(7) A board of trustees of a higher education institution shall:

(a) annually review and evaluate the performance of charter schools authorized by the board of trustees and hold the schools accountable for their performance;

(b) monitor charter schools authorized by the board of trustees for compliance with federal and state laws, rules, and regulations; and

(c) provide technical support to charter schools authorized by the board of trustees to assist them in understanding and performing their charter obligations.

(8) (a) In addition to complying with the requirements of this section, a campus board of directors of a college campus within the Utah College of Applied Technology shall obtain the approval of the Utah College of Applied Technology Board of Trustees before entering into an agreement to establish and operate a charter school.

(b) If a campus board of directors of a college campus with the Utah College of Applied Technology approves an application to establish and operate a charter school, the campus board of directors of the college campus shall submit the application to the Utah College of Applied Technology Board of Trustees.

(c) The Utah College of Applied Technology Board of Trustees shall, by majority vote, within 60 days [~~or~~] of receipt of the application, approve or deny the application approved by the campus board of directors.

(d) The Utah College of Applied Technology Board of Trustees may deny an application approved by a campus board of directors if the proposed charter school does not accomplish a purpose of charter schools as provided in Section 53A-1a-503.

(e) A charter school application may not be denied on the basis that the establishment of the charter school will have any or all of the following impacts on a public school, including another charter school:

(i) an enrollment decline;

(ii) a decrease in funding; or

(iii) a modification of programs or services.

(9) (a) Subject to the requirements of this part, a campus board of directors of a college campus within the Utah College of Applied Technology may establish:

(i) procedures for submitting applications to establish and operate a charter school to a campus board of directors of a college campus within the Utah College of Applied Technology; and

(ii) criteria for a campus board of directors' approval of an application to establish and operate a charter school.

(b) The Utah College of Applied Technology Board of Trustees may not establish policy governing the procedures or criteria described in Subsection (9)(a).

Section 104. Section **53A-3-701** is amended to read:

53A-3-701. School and school district professional development plans.

(1) (a) Each public school and school district shall develop and implement a systematic, comprehensive, and long-term plan for staff professional development.

(b) Each school shall use its school community council, school directors, or a subcommittee or task force created by the school community council as provided in Section 53A-1a-108 to help develop and implement the plan.

(2) Each plan shall include the following components:

(a) an alignment of professional development activities at the school and school district level with:

(i) the school improvement plan under Section 53A-1a-108.5;

(ii) the School LAND Trust Program authorized under Section 53A-16-101.5;

(iii) the Utah Performance Assessment System for Students under Title 53A, Chapter 1, Part 6, Achievement Tests;

(iv) Sections 53A-6-101 through 53A-6-104 of the Educator Licensing and Professional Practices Act; and

(v) [~~Title 53A, Chapter 9, Teacher Career Ladders; and (vi)~~] Title 53A, Chapter [~~10, Educator Evaluation~~] 8a, Public Education Human Resource Management Act;

(b) provision for the development of internal instructional leadership and support;

(c) the periodic presence of all stakeholders at the same time in the professional development process, to include administrators, educators, support staff, parents, and students;

(d) provisions for the use of consultants to enhance and evaluators to assess the

effectiveness of the plan as implemented; and

(e) the time required for and the anticipated costs of implementing and maintaining the plan.

(3) (a) Each local school board shall review and either approve or recommend modifications for each school plan within its district so that each school's plan is compatible with the district plan.

(b) The board shall:

(i) provide positive and meaningful assistance to a school, if requested by its community council or school directors, in drafting and implementing its plan; and

(ii) monitor the progress of each school plan and hold each school accountable for meeting the objectives of its plan.

(4) The State Board of Education, through the superintendent of public instruction, shall work with school districts to identify the resources required to implement and maintain each school's and school district's professional development plan required under this section.

Section 105. Section **53A-16-107** is amended to read:

53A-16-107. Capital outlay levy -- Authority to use proceeds of .0002 tax rate for maintenance of school facilities -- Restrictions and procedure -- Limited authority to use proceeds for general fund purposes -- Notification required when using proceeds for general fund purposes -- Authority for small school districts to use levy proceeds for operation and maintenance of plant services.

(1) Subject to Subsection (3) and except as provided in Subsections (2), (5), (6), and (7), a local school board may annually impose a capital outlay levy not to exceed .0024 per dollar of taxable value to be used for:

(a) capital outlay; or

(b) debt service.

(2) (a) A local school board with an enrollment of 2,500 students or more may utilize the proceeds of a maximum of .0002 per dollar of taxable value of the local school board's annual capital outlay levy for the maintenance of school facilities in the school district.

(b) A local school board that uses the option provided under Subsection (2)(a) shall:

(i) maintain the same level of expenditure for maintenance in the current year as it did in the preceding year, plus the annual average percentage increase applied to the maintenance

and operation budget for the current year; and

(ii) identify the expenditure of capital outlay funds for maintenance by a district project number to ensure that the funds are expended in the manner intended.

(c) The State Board of Education shall establish by rule the expenditure classification for maintenance under this program using a standard classification system.

(3) Beginning January 1, 2009, and through the taxable year beginning January 1, 2011, in order to qualify for receipt of the state contribution toward the minimum school program, a local school board in a county of the first class shall impose a capital outlay levy of at least .0006 per dollar of taxable value.

(4) (a) The county treasurer of a county of the first class shall distribute revenues generated by the .0006 portion of the capital outlay levy required in Subsection (3) to school districts within the county in accordance with Section 53A-16-114.

(b) (i) Except as provided in Subsection (4)(b)(ii), if a school district in a county of the first class imposes a capital outlay levy pursuant to this section which exceeds .0006 per dollar of taxable value, the county treasurer of a county of the first class shall distribute revenues generated by the portion of the capital outlay levy which exceeds .0006 to the school district imposing the levy.

(ii) If a new district and a remaining district are required to impose property tax levies pursuant to Subsection 53A-2-118.4(2), the county treasurer shall distribute revenues of the new district or remaining district generated by the portion of a capital outlay levy that exceeds .0006 in accordance with Section 53A-2-118.4.

(5) (a) Notwithstanding Subsections (1)(a) and (b) and subject to Subsections (5)(b), (c), and (d), for fiscal years 2010-11 and 2011-12, a local school board may use the proceeds of the local school board's capital outlay levy for general fund purposes if the proceeds are not committed or dedicated to pay debt service or bond payments.

(b) If a local school board uses the proceeds described in Subsection (5)(a) for general fund purposes, the local school board shall notify the public of the local school board's use of the capital outlay levy proceeds for general fund purposes:

(i) prior to the board's budget hearing in accordance with the notification requirements described in Section 53A-19-102; and

(ii) at a budget hearing required in Section 53A-19-102.

(c) A local school board may not use the proceeds described in Subsection (5)(a) to fund the following accounting function classifications as provided in the Financial Accounting for Local and State School Systems guidelines developed by the National Center for Education Statistics:

(i) 2300 Support Services - General District Administration; or

(ii) 2500 Support Services - Central Services.

(d) A local school board may not use the proceeds from a distribution described in Section [~~53A-16-107.1~~] 53A-16-114 for general fund purposes.

(6) (a) In addition to the uses described in Subsection (1), a local school board of a school district with an enrollment of fewer than 2,500 students, may use the proceeds of the local school board's capital outlay levy, in fiscal years 2011-12, 2012-13, and 2013-14, for expenditures made within the accounting function classification 2600, Operation and Maintenance of Plant Services, of the Financial Accounting for Local and State School Systems guidelines developed by the National Center for Education Statistics, excluding expenditures for mobile phone service and vehicle operation and maintenance.

(b) If a local school board of a school district with an enrollment of fewer than 2,500 students uses the proceeds of a capital outlay levy for the operation and maintenance of plant services as described in Subsection (6)(a), the local school board shall notify the public of the local school board's use of the capital outlay levy proceeds for operation and maintenance of plant services:

(i) prior to the board's budget hearing in accordance with the notification requirements described in Section 53A-19-102; and

(ii) at a budget hearing required in Section 53A-19-102.

(7) Beginning January 1, 2012, a local school board may not levy a tax in accordance with this section.

Section 106. Section **53A-16-114** is amended to read:

53A-16-114. School capital outlay in counties of the first class -- Allocation -- Report to Education Interim Committee.

(1) For purposes of this section:

(a) "Average annual enrollment growth over the prior three years" means the quotient of:

(i) (A) enrollment in the current school year, based on October 1 enrollment counts; minus

(B) enrollment in the year three years prior, based on October 1 enrollment counts; divided by

(ii) three.

(b) "Capital outlay increment money" means the amount of revenue equal to the difference between:

(i) the amount of revenue generated by a levy of .0006 per dollar of taxable value within a receiving school district during a fiscal year; and

(ii) the amount of revenue the receiving school district received during the same fiscal year from the distribution described in Subsection (2).

(c) "Contributing school district" means a school district in a county of the first class that in a fiscal year receives less revenue from the distribution described in Subsection (2) than it would have received during the same fiscal year from a levy imposed within the school district of .0006 per dollar of taxable value.

(d) "Receiving school district" means a school district in a county of the first class that in a fiscal year receives more revenue from the distribution described in Subsection (2) than it would have received during the same fiscal year from a levy imposed within the school district of .0006 per dollar of taxable value.

(2) The county treasurer of a county of the first class shall distribute revenues generated by the .0006 portion of the capital outlay levy required in Subsection 53A-16-107(3) or the capital local levy required in Section 53A-16-113 to school districts located within the county of the first class as follows:

(a) 25% of the revenues shall be distributed in proportion to a school district's percentage of the total enrollment growth in all of the school districts within the county that have an increase in enrollment, calculated on the basis of the average annual enrollment growth over the prior three years in all of the school districts within the county that have an increase in enrollment over the prior three years, as of the October 1 enrollment counts; and

(b) 75% of the revenues shall be distributed in proportion to a school district's percentage of the total current year enrollment in all of the school districts within the county, as of the October 1 enrollment counts.

(3) If a new school district is created or school district boundaries are adjusted, the enrollment and average annual enrollment growth for each affected school district shall be calculated on the basis of enrollment in school district schools located within that school district's newly created or adjusted boundaries, as of October 1 enrollment counts.

(4) On or before December 31 of each year, the State Board of Education shall provide a county treasurer with audited enrollment information from the fall enrollment audit necessary to distribute revenues as required by this section.

(5) On or before March 31 of each year, a county treasurer in a county of the first class shall distribute the revenue generated within the county of the first class during the prior calendar year from the capital outlay levy described in Section 53A-16-107 or the capital local levy described in Section [~~53A-17a-113~~] 53A-16-113.

(6) On or before the November meeting of the Education Interim Committee of each year, a receiving school district shall report to the committee:

(a) how the receiving school district spent the district's capital outlay increment money during the prior fiscal year; and

(b) the receiving school district's plan to increase student capacity of existing school buildings within the district.

(7) The Education Interim Committee shall consider the reports of receiving school districts described in Subsection (6) as part of a review to reauthorize this section and provisions related to this section, if the committee is directed to conduct a review pursuant to Title 63I, Chapter 1, Legislative Oversight and Sunset Act.

Section 107. Section **53A-17a-133** is amended to read:

53A-17a-133. State-supported voted local levy authorized -- Election requirements -- State guarantee -- Reconsideration of the program.

(1) As used in this section, "voted and board local levy funding balance" means the difference between:

(a) the amount appropriated for the voted and board local levy program in a fiscal year; and

(b) the amount necessary to provide the state guarantee per weighted pupil unit as determined under this section and Section 53A-17a-164 in the same fiscal year.

(2) An election to consider adoption or modification of a voted local levy is required if

initiative petitions signed by 10% of the number of electors who voted at the last preceding general election are presented to the local school board or by action of the board.

(3) (a) (i) To impose a voted local levy, a majority of the electors of a district voting at an election in the manner set forth in Subsections (9) and (10) must vote in favor of a special tax.

(ii) The tax rate may not exceed .002 per dollar of taxable value.

(b) Except as provided in Subsection (3)(c), in order to receive state support the first year, a district must receive voter approval no later than December 1 of the year prior to implementation.

(c) Beginning on or after January 1, 2012, a school district may receive state support in accordance with Subsection (4) without complying with the requirements of Subsection (3)(b) if the local school board imposed a tax in accordance with this section during the taxable year beginning on January 1, 2011 and ending on December 31, 2011.

(4) (a) In addition to the revenue a school district collects from the imposition of a levy pursuant to this section, the state shall contribute an amount sufficient to guarantee $27.36 per weighted pupil unit for each .0001 of the first .0016 per dollar of taxable value.

(b) The same dollar amount guarantee per weighted pupil unit for the .0016 per dollar of taxable value under Subsection (4)(a) shall apply to the portion of the board local levy authorized in Section 53A-17a-164, so that the guarantee shall apply up to a total of .002 per dollar of taxable value if a school district levies a tax rate under both programs.

(c) (i) Beginning July 1, 2014, the $27.36 guarantee under Subsections (4)(a) and (b) shall be indexed each year to the value of the weighted pupil unit for the grades 1 through 12 program by making the value of the guarantee equal to .00963 times the value of the prior year's weighted pupil unit for the grades 1 through 12 program.

(ii) The guarantee shall increase by .0005 times the value of the prior year's weighted pupil unit for the grades 1 through 12 program for each succeeding year subject to the Legislature appropriating funds for an increase in the guarantee.

(d) (i) The amount of state guarantee money to which a school district would otherwise be entitled to receive under this Subsection (4) may not be reduced for the sole reason that the district's levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 pursuant to changes in property valuation.

(ii) Subsection (4)(d)(i) applies for a period of five years following any such change in the certified tax rate.

(e) The guarantee provided under this section does not apply to the portion of a voted local levy rate that exceeds the voted local levy rate that was in effect for the previous fiscal year, unless an increase in the voted local levy rate was authorized in an election conducted on or after July 1 of the previous fiscal year and before December 2 of the previous fiscal year.

(f) (i) If a voted and board local levy funding balance exists for the prior fiscal year, the State Board of Education shall:

(A) use the voted and board local levy funding balance to increase the value of the state guarantee per weighted pupil unit described in Subsection (4)(c) in the current fiscal year; and

(B) distribute the state contribution to the voted and board local levy programs to school districts based on the increased value of the state guarantee per weighted pupil unit described in Subsection (4)(f)(i)(A).

(ii) The State Board of Education shall report action taken under this Subsection (4)(f) to the Office of the Legislative Fiscal Analyst and the Governor's Office of Planning and Budget.

(5) (a) An election to modify an existing voted local levy is not a reconsideration of the existing authority unless the proposition submitted to the electors expressly so states.

(b) A majority vote opposing a modification does not deprive the district of authority to continue the levy.

(c) If adoption of a voted local levy is contingent upon an offset reducing other local school board levies, the board must allow the electors, in an election, to consider modifying or discontinuing the imposition of the levy prior to a subsequent increase in other levies that would increase the total local school board levy.

(d) Nothing contained in this section terminates, without an election, the authority of a school district to continue imposing an existing voted local levy previously authorized by the voters as a voted leeway program.

(6) Notwithstanding Section 59-2-919, a school district may budget an increased amount of ad valorem property tax revenue derived from a voted local levy imposed under this section in addition to revenue from new growth as defined in Subsection 59-2-924(4), without having to comply with the notice requirements of Section 59-2-919, if:

(a) the voted local levy is approved:

(i) in accordance with Subsections (9) and (10) on or after January 1, 2003; and

(ii) within the four-year period immediately preceding the year in which the school district seeks to budget an increased amount of ad valorem property tax revenue derived from the voted local levy; and

(b) for a voted local levy approved or modified in accordance with this section on or after January 1, 2009, the school district complies with the requirements of Subsection (8).

(7) Notwithstanding Section 59-2-919, a school district may levy a tax rate under this section that exceeds the certified tax rate without having to comply with the notice requirements of Section 59-2-919 if:

(a) the levy exceeds the certified tax rate as the result of a school district budgeting an increased amount of ad valorem property tax revenue derived from a voted local levy imposed under this section;

(b) the voted local levy was approved:

(i) in accordance with Subsections (9) and (10) on or after January 1, 2003; and

(ii) within the four-year period immediately preceding the year in which the school district seeks to budget an increased amount of ad valorem property tax revenue derived from the voted local levy; and

(c) for a voted local levy approved or modified in accordance with this section on or after January 1, 2009, the school district complies with requirements of Subsection (8).

(8) For purposes of Subsection (6)(b) or (7)(c), the proposition submitted to the electors regarding the adoption or modification of a voted local levy shall contain the following statement:

"A vote in favor of this tax means that (name of the school district) may increase revenue from this property tax without advertising the increase for the next five years."

(9) (a) Before imposing a property tax levy pursuant to this section, a school district shall submit an opinion question to the school district's registered voters voting on the imposition of the tax rate so that each registered voter has the opportunity to express the registered voter's opinion on whether the tax rate should be imposed.

(b) The election required by this Subsection (9) shall be held:

(i) at a regular general election conducted in accordance with the procedures and

requirements of Title 20A, Election Code, governing regular elections;

(ii) at a municipal general election conducted in accordance with the procedures and requirements of Section 20A-1-202; or

(iii) at a local special election conducted in accordance with the procedures and requirements of Section 20A-1-203.

(c) Notwithstanding the requirements of Subsections (9)(a) and (b), beginning on or after January 1, 2012, a school district may levy a tax rate in accordance with this section without complying with the requirements of Subsections (9)(a) and (b) if the school district imposed a tax in accordance with this section at any time during the taxable year beginning on January 1, 2011, and ending on December 31, 2011.

(10) If a school district determines that a majority of the school district's registered voters voting on the imposition of the tax rate have voted in favor of the imposition of the tax rate in accordance with Subsection (9), the school district may impose the tax rate.

Section 108. Section **53A-25a-102** is amended to read:

53A-25a-102. Definitions.

As used in this chapter:

(1) "Blind student" means an individual between ages three through 21 who is eligible for special education services and who:

(a) has a visual acuity of 20/200 or less in the better eye with correcting lenses or has a limited field of vision such that the widest diameter subtends an angular distance no greater than 20 degrees;

(b) has a medically indicated expectation of visual deterioration; or

(c) has functional blindness.

(2) "Braille" means the system of reading and writing through touch, commonly known as English Braille.

(3) "Functional blindness" means a visual impairment that renders a student unable to read or write print at a level commensurate with the student's cognitive abilities.

(4) "Individualized education program" or "IEP" means a written statement developed for a student eligible for special education services pursuant to [~~Section 602(a)(20) of part B of~~] the Individuals with Disabilities Education Act, 20 U.S.C. Section [~~1401(a)~~] 1414(d).

Section 109. Section **54-3-31** is amended to read:

54-3-31. Electric utility service within a provider municipality -- Electrical corporation authorized as continuing provider for service provided on or before June 15, 2013 -- Notice of service and agreement -- Transfer of customer.

(1) This section applies to an electrical corporation that:

(a) provides electric service to a customer on or before June 15, 2013, within the municipal boundary of a municipality that provides electric service; and

(b) intends to continue providing service to that customer.

(2) Notwithstanding Section 54-3-30, if an electrical corporation provides electric service to a customer within the municipal boundary of a municipality on or before June 15, 2013, and the municipality provides electric service to another customer within its municipal boundary, the electrical corporation may continue to provide electric service to the customer within the municipality's boundary if:

(a) the electrical corporation provides, on or before December 15, 2013, the municipality with an accurate and complete verified written notice, in accordance with Subsection (3), identifying each customer within the municipality served by the electrical corporation on or before June 15, 2013;

(b) the electrical corporation enters into a written agreement with the municipality no later than June 15, 2014; and

(c) the commission approves the agreement in accordance with Section 54-4-40.

(3) The written notice provided in accordance with Subsection (2)(a) shall include for each customer:

(a) the customer's meter number;

(b) the location of the customer's meter by street address, global positioning system coordinates, metes and bounds description, or other similar method of meter location;

(c) the customer's class of service; and

(d) a representation that the customer was receiving service from the electrical corporation on or before June 15, 2013.

(4) The agreement entered into in accordance with Subsection (2) shall require the following:

(a) The electrical corporation is the exclusive electric service provider to a customer identified in the notice described in Subsection (2)(a) unless the municipality and electrical

corporation subsequently agree, in writing, that the municipality may provide electric service to the identified customer.

(b) If a customer who is located within the municipal boundary and who is not identified in Subsection (2)(a) requests service after June 15, 2013, from the electrical corporation, the electrical corporation may not provide that customer electric service unless the electrical corporation subsequently submits a request to and enters into a written agreement with the municipality in accordance with Section [~~54-4-30~~] 54-3-30.

(5) (a) Unless otherwise agreed in writing by the electrical corporation and the municipality, the electrical corporation may terminate an agreement entered into in accordance with Subsection (2)(b) by giving written notice of termination to the municipality:

(i) no earlier than two years before the day of termination; or

(ii) within a period of time shorter than two years if otherwise agreed to with the municipality.

(b) Upon termination of an agreement in accordance with Subsection (5)(a):

(i) (A) the electrical corporation shall transfer an electric service customer located within the municipality to the municipality; and

(B) the municipality shall provide electric service to the customer; and

(ii) the electrical corporation shall transfer a facility in accordance with and for the value as provided in Section 10-2-421.

(6) This section may not be construed to modify or terminate any written franchise agreement or other agreement that expressly provides for electric service by an electrical corporation to a customer within a municipality that was entered into between an electrical corporation and a municipality on or before June 15, 2013.

Section 110. Section **57-8-7.5 (Effective 07/01/14)** is amended to read:

57-8-7.5 (Effective 07/01/14). Reserve analysis -- Reserve fund.

(1) As used in this section:

(a) "Reserve analysis" means an analysis to determine:

(i) the need for a reserve fund to accumulate money to cover the cost of repairing, replacing, or restoring common areas and facilities that have a useful life of three years or more and a remaining useful life of less than 30 years, if the cost cannot reasonably be funded from the general budget or other funds of the association of unit owners; and

(ii) the appropriate amount of any reserve fund.

(b) "Reserve fund line item" means the line item in an association of unit owners' annual budget that identifies the amount to be placed into a reserve fund.

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

(a) cause a reserve analysis to be conducted no less frequently than every six years; and

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

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

(4) A reserve fund analysis shall include:

(a) a list of the components identified in the reserve analysis that will reasonably require reserve funds;

(b) a statement of the probable remaining useful life, as of the date of the reserve analysis, of each component identified in the reserve analysis;

(c) an estimate of the cost to repair, replace, or restore each component identified in the reserve analysis;

(d) an estimate of the total annual contribution to a reserve fund necessary to meet the cost to repair, replace, or restore each component identified in the reserve analysis during the component's useful life and at the end of the component's useful life; and

(e) a reserve funding plan that recommends how the association of unit owners may fund the annual contribution described in Subsection (4)(d).

(5) An association of unit owners shall:

(a) annually provide unit owners a summary of the most recent reserve analysis or update; and

(b) provide a copy of the complete reserve analysis or update to a unit owner who requests a copy.

(6) In formulating its budget each year, an association of unit owners shall include a reserve fund line item in:

(a) an amount the management committee determines, based on the reserve analysis, to be prudent; or

(b) an amount required by the declaration, if the declaration requires an amount higher than the amount determined under Subsection (6)(a).

(7) (a) Within 45 days after the day on which an association of unit owners adopts its annual budget, the unit owners may veto the reserve fund line item by a 51% vote of the allocated voting interests in the association of unit owners at a special meeting called by the unit owners for the purpose of voting whether to veto a reserve fund line item.

(b) If the unit owners veto a reserve fund line item under Subsection (7)(a) and a reserve fund line item exists in a previously approved annual budget of the association of unit owners that was not vetoed, the association of unit owners shall fund the reserve account in accordance with that prior reserve fund line item.

(8) (a) Subject to Subsection (8)(b), if an association of unit owners does not comply with the requirements of Subsection (5), (6), or (7) and fails to remedy the noncompliance within the time specified in Subsection (8)(c), a unit owner may file an action in state court for:

(i) injunctive relief requiring the association of unit owners to comply with the requirements of Subsection (5), (6), or (7);

(ii) $500 or actual damages, whichever is greater;

(iii) any other remedy provided by law; and

(iv) reasonable costs and attorney fees.

(b) No fewer than 90 days before the day on which a unit owner files a complaint under Subsection (8)(a), the unit owner shall deliver written notice described in Subsection (8)(c) to the association of unit owners.

(c) A notice under Subsection (8)(b) shall state:

(i) the requirement in Subsection (5), (6), or (7) with which the association of unit owners has failed to comply;

(ii) a demand that the association of unit owners come into compliance with the requirements; and

(iii) a date, no fewer than 90 days after the day on which the unit owner delivers the notice, by which the association of unit owners shall remedy its noncompliance.

(d) In a case filed under Subsection (8)(a), a court may order an association of unit owners to produce the summary of the reserve analysis or the complete reserve analysis on an expedited basis and at the association of unit owners' expense.

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

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

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

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

(c) This Subsection (9) may not be construed to limit a management committee from prudently investing money in a reserve fund, subject to any investment constraints imposed by the declaration.

(10) Subsections (2) through (9) do not apply to an association of unit owners during the period of declarant control described in Subsection 57-8-16.5(1).

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

Section 111. Section **57-8-43** is amended to read:

57-8-43. Insurance.

(1) As used in this section, "reasonably available" means available using typical insurance carriers and markets, irrespective of the ability of the association of unit owners to pay.

(2) (a) This section applies to an insurance policy or combination of insurance policies:

(i) issued or renewed on or after July 1, 2011; and

(ii) issued to or renewed by:

(A) a unit owner; or

(B) an association of unit owners, regardless of when the association of unit owners is formed.

(b) Unless otherwise provided in the declaration, this section does not apply to a commercial condominium project insured under a policy or combination of policies issued or renewed on or after July 1, [~~2013~~] 2014.

(3) Beginning not later than the day on which the first unit is conveyed to a person other than a declarant, an association of unit owners shall maintain, to the extent reasonably available:

(a) subject to Subsection (9), blanket property insurance or guaranteed replacement

cost insurance on the physical structures in the condominium project, including common areas and facilities, limited common areas and facilities, and units, insuring against all risks of direct physical loss commonly insured against, including fire and extended coverage perils; and

(b) subject to Subsection (10), liability insurance covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the common areas and facilities.

(4) If an association of unit owners becomes aware that property insurance under Subsection (3)(a) or liability insurance under Subsection (3)(b) is not reasonably available, the association of unit owners shall, within seven calendar days after becoming aware, give all unit owners notice, as provided in Section 57-8-42, that the insurance is not reasonably available.

(5) (a) The declaration or bylaws may require the association of unit owners to carry other types of insurance in addition to those described in Subsection (3).

(b) In addition to any type of insurance coverage or limit of coverage provided in the declaration or bylaws and subject to the requirements of this section, an association of unit owners may, as the management committee considers appropriate, obtain:

(i) an additional type of insurance than otherwise required; or

(ii) a policy with greater coverage than otherwise required.

(6) Unless a unit owner is acting within the scope of the unit owner's authority on behalf of an association of unit owners, a unit owner's act or omission may not:

(a) void a property insurance policy under Subsection (3)(a) or a liability insurance policy under Subsection (3)(b); or

(b) be a condition to recovery under a policy.

(7) An insurer under a property insurance policy or liability insurance policy obtained by an association of unit owners under this section waives the insurer's right to subrogation under the policy against:

(a) any person residing with the unit owner, if the unit owner resides in the unit; and

(b) the unit owner.

(8) (a) An insurance policy issued to an association of unit owners may not be inconsistent with any provision of this section.

(b) A provision of a declaration, bylaw, rule, or other document governing the association of unit owners that is contrary to a provision of this section has no effect.

(c) Neither the governing documents nor a property insurance or liability insurance policy issued to an association of unit owners may prevent a unit owner from obtaining insurance for the unit owner's own benefit.

(9) (a) This Subsection (9) applies to property insurance required under Subsection (3)(a).

(b) The total amount of coverage provided by blanket property insurance or guaranteed replacement cost insurance may not be less than 100% of the full replacement cost of the insured property at the time the insurance is purchased and at each renewal date, excluding:

(i) items normally excluded from property insurance policies; and

(ii) unless otherwise provided in the declaration, any commercial condominium unit in a mixed-use condominium project, including any fixture, improvement, or betterment in a commercial condominium unit in a mixed-use condominium project.

(c) Property insurance shall include coverage for any fixture, improvement, or betterment installed at any time to a unit or to a limited common area associated with a unit, whether installed in the original construction or in any remodel or later alteration, including a floor covering, cabinet, light fixture, electrical fixture, heating or plumbing fixture, paint, wall covering, window, and any other item permanently part of or affixed to a unit or to a limited common element associated with a unit.

(d) Notwithstanding anything in this section and unless otherwise provided in the declaration, an association of unit owners is not required to obtain property insurance for a loss to a unit that is not physically attached to:

(i) another unit; or

(ii) a structure that is part of a common area or facility.

(e) Each unit owner is an insured person under a property insurance policy.

(f) If a loss occurs that is covered by a property insurance policy in the name of an association of unit owners and another property insurance policy in the name of a unit owner:

(i) the association's policy provides primary insurance coverage; and

(ii) notwithstanding Subsection (9)(f)(i) and subject to Subsection (9)(g):

(A) the unit owner is responsible for the deductible of the association of unit owners; and

(B) building property coverage, often referred to as coverage A, of the unit owner's

policy applies to that portion of the loss attributable to the policy deductible of the association of unit owners.

(g) (i) As used in this Subsection (9)(g) and Subsection (9)(j):

(A) "Covered loss" means a loss, resulting from a single event or occurrence, that is covered by a property insurance policy of an association of unit owners.

(B) "Unit damage" means damage to a unit or to a limited common area or facility appurtenant to that unit, or both.

(C) "Unit damage percentage" means the percentage of total damage resulting in a covered loss that is attributable to unit damage.

(ii) A unit owner who owns a unit that has suffered unit damage as part of a covered loss is responsible for an amount calculated by applying the unit damage percentage for that unit to the amount of the deductible under the property insurance policy of the association of unit owners.

(iii) If a unit owner does not pay the amount required under Subsection (9)(g)(ii) within 30 days after substantial completion of the repairs to the unit or limited common areas and facilities appurtenant to that unit, an association of unit owners may levy an assessment against the unit owner for that amount.

(h) An association of unit owners shall set aside an amount equal to the amount of the association's property insurance policy deductible or, if the policy deductible exceeds $10,000, an amount not less than $10,000.

(i) (i) An association of unit owners shall provide notice in accordance with Section 57-8-42 to each unit owner of the unit owner's obligation under Subsection (9)(g) for the association's policy deductible and of any change in the amount of the deductible.

(ii) (A) An association of unit owners that fails to provide notice as provided in Subsection (9)(i)(i) is responsible for the portion of the deductible that the association of unit owners could have assessed to a unit owner under Subsection (9)(g), but only to the extent that the unit owner does not have insurance coverage that would otherwise apply under this Subsection (9).

(B) Notwithstanding Subsection (9)(i)(ii), an association of unit owners that provides notice of the association's policy deductible, as required under Subsection (9)(i)(i), but fails to provide notice of a later increase in the amount of the deductible is responsible only for the

amount of the increase for which notice was not provided.

(iii) The failure of an association of unit owners to provide notice as provided in Subsection (9)(i)(i) may not be construed to invalidate any other provision of this section.

(j) If, in the exercise of the business judgment rule, the management committee determines that a covered loss is likely not to exceed the property insurance policy deductible of the association of unit owners and until it becomes apparent the covered loss exceeds the deductible of the property insurance of the association of unit owners and a claim is submitted to the property insurance insurer of the association of unit owners:

(i) a unit owner's policy is considered the policy for primary coverage for a loss occurring to the unit owner's unit or to a limited common area or facility appurtenant to the unit;

(ii) the association of unit owners is responsible for any covered loss to any common areas and facilities;

(iii) a unit owner who does not have a policy to cover the damage to that unit owner's unit and appurtenant limited common areas and facilities is responsible for that damage, and the association of unit owners may, as provided in Subsection (9)(g)(iii), recover any payments the association of unit owners makes to remediate that unit and appurtenant limited common areas and facilities; and

(iv) the association of unit owners need not tender the claim to the association's insurer.

(k) (i) An insurer under a property insurance policy issued to an association of unit owners shall adjust with the association of unit owners a loss covered under the association's policy.

(ii) Notwithstanding Subsection (9)(k)(i), the insurance proceeds for a loss under a property insurance policy of an association of unit owners:

(A) are payable to an insurance trustee that the association of unit owners designates or, if no trustee is designated, to the association of unit owners; and

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

(iii) An insurance trustee or an association of unit owners shall hold any insurance proceeds in trust for the association of unit owners, unit owners, and lien holders.

(iv) (A) If damaged property is to be repaired or restored, insurance proceeds shall be

disbursed first for the repair or restoration of the damaged property.

(B) After the disbursements described in Subsection (9)(k)(iv)(A) are made and the damaged property has been completely repaired or restored or the project terminated, any surplus proceeds are payable to the association of unit owners, unit owners, and lien holders, as provided in the declaration.

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

(i) the association of unit owners;

(ii) a unit owner, upon the unit owner's written request; and

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

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

(n) A management committee that acquires from an insurer the property insurance required in this section is not liable to unit owners if the insurance proceeds are not sufficient to cover 100% of the full replacement cost of the insured property at the time of the loss.

(o) (i) Unless required in the declaration, property insurance coverage is not required for fixtures, improvements, or betterments in a commercial unit or limited common areas and facilities appurtenant to a commercial unit in a mixed-use condominium project.

(ii) Notwithstanding any other provision of this section, an association of unit owners may obtain property insurance for fixtures, improvements, or betterments in a commercial unit in a mixed-use condominium project if allowed or required in the declaration.

(p) (i) This Subsection (9) does not prevent a person suffering a loss as a result of damage to property from asserting a claim, either directly or through subrogation, for the loss against a person at fault for the loss.

(ii) Subsection (9)(p)(i) does not affect Subsection (7).

(10) (a) This Subsection (10) applies to a liability insurance policy required under Subsection (3)(b).

(b) A liability insurance policy shall be in an amount determined by the management committee but not less than an amount specified in the declaration or bylaws.

(c) Each unit owner is an insured person under a liability insurance policy that an association of unit owners obtains, but only for liability arising from:

(i) the unit owner's ownership interest in the common areas and facilities;

(ii) maintenance, repair, or replacement of common areas and facilities; and

(iii) the unit owner's membership in the association of unit owners.

Section 112. Section **57-8a-211 (Superseded 07/01/14)** is amended to read:

57-8a-211 (Superseded 07/01/14). Reserve analysis -- Reserve fund.

(1) As used in this section:

(a) "Reserve analysis" means an analysis to determine:

(i) the need for a reserve fund to accumulate money to cover the cost of repairing, replacing, or restoring common areas that have a useful life of no fewer than three years but less than 30 years, when the cost cannot reasonably be funded from the association's general budget or from other association funds; and

(ii) the appropriate amount of any reserve fund.

(b) "Reserve fund line item" means a line item in the annual budget of an association that identifies the amount to be placed into a reserve fund.

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

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

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

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

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

(4) A reserve analysis shall include:

(a) a list of the components identified in the reserve analysis that will reasonably require reserve funds;

(b) a statement of the probable remaining useful life, as of the date of the reserve analysis, of each component identified in the reserve analysis;

(c) an estimate of the cost to repair, replace, or restore each component identified in the reserve analysis;

(d) an estimate of the total annual contribution to a reserve fund necessary to meet the

cost to repair, replace, or restore each component identified in the reserve analysis during the component's useful life and at the end of the component's useful life; and

(e) a reserve funding plan that recommends how the association may fund the annual contribution described in Subsection (4)(d).

(5) Each year, an association shall provide:

(a) a summary of the most recent reserve analysis, including any updates, to each lot owner; and

(b) a complete copy of the most recent reserve analysis, including any updates, to a lot owner upon request.

(6) (a) An association shall include a reserve fund line item in its annual budget.

(b) The amount of the reserve fund line item shall be determined by:

(i) the board, based on the reserve analysis and the amount that the board determines is prudent under the circumstances; or

(ii) the governing documents, if the governing documents require an amount greater than the amount determined under Subsection (6)(b)(i).

(c) Within 45 days after the day on which an association adopts its annual budget, the lot owners may veto the reserve fund line item by a 51% vote of the allocated voting interests in the association at a special meeting called by the lot owners for the purpose of voting whether to veto a reserve fund line item.

(d) If the lot owners veto a reserve fund line item under Subsection (6)(c) and a reserve fund line item exists in a previously approved annual budget of the association that was not vetoed, the association shall fund the reserve account in accordance with that prior reserve fund line item.

(7) (a) Subject to Subsection (7)(b), if an association does not comply with the requirements described in Subsection (5) or (6) and fails to remedy the noncompliance within the time specified in Subsection (7)(c), a lot owner may file an action in state court for:

(i) injunctive relief requiring the association to comply with the requirements of Subsection (5) or (6);

(ii) $500 or the lot owner's actual damages, whichever is greater;

(iii) any other remedy provided by law; and

(iv) reasonable costs and attorney fees.

(b) No fewer than 90 days before the day on which a lot owner files a complaint under Subsection (7)(a), the lot owner shall deliver written notice described in Subsection (7)(c) to the association.

(c) A notice described in Subsection (7)(b) shall state:

(i) the requirement in Subsection (5) or (6) with which the association has failed to comply;

(ii) a demand that the association [~~of unit owners~~] come into compliance with the requirements; and

(iii) a date, no fewer than 90 days after the day on which a lot owner delivers the notice, by which the association shall remedy its noncompliance.

(d) In a case filed under Subsection (7)(a), a court may summarily order an association to produce the summary of the reserve analysis or the complete reserve analysis on an expedited basis and at the association's expense.

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

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

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

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

(c) This Subsection (4) may not be construed to limit a board from prudently investing money in a reserve fund, subject to any investment constraints imposed by the governing documents.

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

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

Section 113. Section **58-40-302** is amended to read:

58-40-302. Qualifications for licensure.

(1) An applicant for licensure under this chapter shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under [~~Subsection 63-38-3(2)~~] Section 63J-1-504; and

(c) be of good moral character.

(2) In addition to the requirements of Subsection (1), an applicant for licensure as a master therapeutic recreation specialist under this chapter shall as defined by division rule:

(a) complete an approved graduate degree;

(b) complete 4,000 qualifying hours of paid experience as:

(i) a licensed therapeutic recreation specialist if completed in the state; or

(ii) a certified therapeutic recreation specialist certified by the National Council for Therapeutic Recreation Certification if completed outside of the state; and

(c) pass an approved examination.

(3) In addition to the requirements of Subsection (1), an applicant for licensure as a therapeutic recreation specialist under this chapter shall, as defined by division rule:

(a) complete an approved:

(i) bachelor's degree in therapeutic recreation or recreational therapy;

(ii) bachelor's degree with an approved emphasis, option, or concentration in therapeutic recreation or recreational therapy; or

(iii) graduate degree;

(b) complete an approved practicum; and

(c) pass an approved examination.

(4) In addition to the requirements of Subsection (1), an applicant for licensure as a therapeutic recreation technician under this chapter shall, as defined by division rule:

(a) have a high school diploma or GED equivalent;

(b) complete an approved:

(i) educational course in therapeutic recreation taught by a licensed master therapeutic recreation specialist; or

(ii) six semester hours or nine quarter hours in therapeutic recreation or recreational therapy from an accredited college or university;

(c) complete an approved practicum under the supervision of:

(i) a licensed master therapeutic recreation specialist; or

(ii) an on-site, full-time, employed therapeutic recreation specialist; and

(d) pass an approved examination.

Section 114. Section **58-60-506** is amended to read:

58-60-506. Qualifications for licensure on and after July 1, 2012.

(1) An applicant for licensure under this part on and after July 1, 2012, must meet the following qualifications:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) satisfy the requirements of Subsection (2), (3), (4), (5), (6), or (7) respectively; and

(e) except for licensure as a certified substance use disorder counselor intern and a certified advanced substance use disorder counselor intern, satisfy the examination requirement established by division rule under Section 58-1-203.

(2) In accordance with division rules, an applicant for licensure as an advanced substance use disorder counselor shall produce:

(a) certified transcripts from an accredited institution of higher education that:

(i) meet division standards;

(ii) verify the satisfactory completion of a baccalaureate or graduate degree; and

(iii) verify the completion of prerequisite courses established by division rules;

(b) documentation of the applicant's completion of a substance use disorder education program that includes:

(i) at least 300 hours of substance use disorder related education, of which 200 hours may have been obtained while qualifying for a substance use disorder counselor license; and

(ii) a supervised practicum of at least 350 hours, of which 200 hours may have been obtained while qualifying for a substance use disorder counselor license; and

(c) documentation of the applicant's completion of at least 4,000 hours of supervised experience in substance use disorder treatment, of which 2,000 hours may have been obtained while qualifying for a substance use disorder counselor license, that:

(i) meets division standards; and

(ii) is performed within a four-year period after the applicant's completion of the substance use disorder education program described in Subsection (2)(b), unless, as determined by the division after consultation with the board, the time for performance is extended due to an extenuating circumstance.

(3) An applicant for licensure as a certified advanced substance use disorder counselor

shall meet the requirements in Subsections (2)(a) and (b).

(4) (a) An applicant for licensure as a certified advanced substance use disorder counselor intern shall meet the requirements in Subsections (2)(a) and (b).

(b) A certified advanced substance use disorder counselor intern license expires at the earlier of:

(i) the licensee passing the examination required for licensure as a certified advanced substance use disorder counselor; or

(ii) six months after the certified advanced substance use disorder counselor intern license is issued.

(5) In accordance with division rules, an applicant for licensure as a substance use disorder counselor shall produce:

(a) certified transcripts from an accredited institution that:

(i) meet division standards;

(ii) verify satisfactory completion of an associate's degree or equivalent as defined by the division in rule; and

(iii) verify the completion of prerequisite courses established by division rules;

(b) documentation of the applicant's completion of a substance use disorder education program that includes:

(i) completion of at least 200 hours of substance use disorder related education; and

(ii) completion of a supervised practicum of at least 200 hours; and

(c) documentation of the applicant's completion of at least 2,000 hours of supervised experience in substance use disorder treatment that:

(i) meets division standards; and

(ii) is performed within a two-year period after the applicant's completion of the substance use disorder education program described in Subsection (5)(b), unless, as determined by the division after consultation with the board, the time for performance is extended due to an extenuating circumstance.

(6) An applicant for licensure as a certified substance use disorder counselor shall meet the requirements of Subsections (5)(a) and (b).

(7) (a) An applicant for licensure as a certified substance use disorder counselor intern shall meet the requirements of Subsections (5)(a) and (b).

(b) A certified substance use disorder counselor intern license expires at the earlier of:

(i) the licensee passing the examination required for licensure as a certified substance use disorder counselor; or

(ii) six months after the certified substance use disorder counselor intern license is issued.

Section 115. Section **58-77-601** is amended to read:

58-77-601. Standards of practice.

(1) (a) Prior to providing any services, a licensed Direct-entry midwife must obtain an informed consent from a client.

(b) The consent must include:

(i) the name and license number of the Direct-entry midwife;

(ii) the client's name, address, telephone number, and primary care provider, if the client has one;

(iii) the fact, if true, that the licensed Direct-entry midwife is not a certified nurse midwife or a physician;

(iv) a description of the licensed Direct-entry midwife's education, training, continuing education, and experience in midwifery;

(v) a description of the licensed Direct-entry midwife's peer review process;

(vi) the licensed Direct-entry midwife's philosophy of practice;

(vii) a promise to provide the client, upon request, separate documents describing the rules governing licensed Direct-entry midwifery practice, including a list of conditions indicating the need for consultation, collaboration, referral, transfer or mandatory transfer, and the licensed Direct-entry midwife's personal written practice guidelines;

(viii) a medical back-up or transfer plan;

(ix) a description of the services provided to the client by the licensed Direct-entry midwife;

(x) the licensed Direct-entry midwife's current legal status;

(xi) the availability of a grievance process;

(xii) client and licensed Direct-entry midwife signatures and the date of signing; and

(xiii) whether the licensed Direct-entry midwife is covered by a professional liability insurance policy.

(2) A licensed Direct-entry midwife shall:

(a) (i) limit the licensed Direct-entry midwife's practice to a normal pregnancy, labor, postpartum, newborn and interconceptual care, which for purposes of this section means a normal labor:

(A) that is not pharmacologically induced;

(B) that is low risk at the start of labor;

(C) that remains low risk through out the course of labor and delivery;

(D) in which the infant is born spontaneously in the vertex position between 37 and 43 completed weeks of pregnancy; and

(E) except as provided in Subsection (2)(a)(ii), in which after delivery, the mother and infant remain low risk; and

(ii) the limitation of Subsection (2)(a)(i) does not prohibit a licensed Direct-entry midwife from delivering an infant when there is:

(A) intrauterine fetal demise; or

(B) a fetal anomaly incompatible with life; and

(b) appropriately recommend and facilitate consultation with, collaboration with, referral to, or transfer or mandatory transfer of care to a licensed health care professional when the circumstances require that action in accordance with this section and standards established by division rule.

(3) If after a client has been informed that she has or may have a condition indicating the need for medical consultation, collaboration, referral, or transfer and the client chooses to decline, then the licensed Direct-entry midwife shall:

(a) terminate care in accordance with procedures established by division rule; or

(b) continue to provide care for the client if the client signs a waiver of medical consultation, collaboration, referral, or transfer.

(4) If after a client has been informed that she has or may have a condition indicating the need for mandatory transfer, the licensed Direct-entry midwife shall, in accordance with procedures established by division rule, terminate the care or initiate transfer by:

(a) calling 911 and reporting the need for immediate transfer;

(b) immediately transporting the client by private vehicle to the receiving provider; or

(c) contacting the physician to whom the client will be transferred and following that

physician's orders.

(5) The standards for consultation and transfer [~~under Subsection 58-77-204(4)~~] are the minimum standards that a licensed Direct-entry midwife must follow. A licensed Direct-entry midwife shall initiate consultation, collaboration, referral, or transfer of a patient sooner than required by [~~Subsection 58-77-204(4) or~~] administrative rule if in the opinion and experience of the licensed Direct-entry midwife, the condition of the client or infant warrant a consultation, collaboration, referral, or transfer.

(6) For the period from 2006 through 2011, a licensed Direct-entry midwife must submit outcome data to the Midwives' Alliance of North America's Division of Research on the form and in the manner prescribed by rule.

(7) This chapter does not mandate health insurance coverage for midwifery services.

Section 116. Section **59-14-302** is amended to read:

59-14-302. Tax basis -- Rates.

(1) As used in this section:

(a) "Manufacturer's sales price" means the amount the manufacturer of a tobacco product charges after subtracting a discount.

(b) "Manufacturer's sales price" includes an original Utah destination freight charge, regardless of:

(i) whether the tobacco product is shipped f.o.b. origin or f.o.b. destination; or

(ii) who pays the original Utah destination freight charge.

(2) There is levied a tax upon the sale, use, or storage of tobacco products in the state.

(3) (a) Subject to Subsection (3)(b), the tax levied under Subsection (2) shall be paid by the manufacturer, jobber, distributor, wholesaler, retailer, user, or consumer.

(b) The tax levied under Subsection (2) on a cigarette produced from a cigarette rolling machine shall be paid by the cigarette rolling machine operator.

(4) For tobacco products except for moist snuff, a little cigar, or a cigarette produced from a cigarette rolling machine, the rate of the tax under this section is .86 multiplied by the manufacturer's sales price.

(5) (a) Subject to Subsection (5)(b), the tax under this section on moist snuff is imposed:

(i) at a rate of $1.83 per ounce; and

(ii) on the basis of the net weight of the moist snuff as listed by the manufacturer.

(b) If the net weight of moist snuff is in a quantity that is a fractional part of one ounce, a proportionate amount of the tax described in Subsection (5)(a) is imposed:

(i) on that fractional part of one ounce; and

(ii) in accordance with rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) (a) A little cigar is taxed at the same tax rates [~~manner~~] as a cigarette is taxed under Subsection 59-14-204(2).

(b) (i) Subject to Subsection (6)(b)(ii), a cigarette produced from a cigarette rolling machine is taxed at the same tax rates as a cigarette is taxed under Subsection 59-14-204(2).

(ii) A tax under this Subsection (6)(b) is imposed on the date the cigarette is produced from the cigarette rolling machine.

(7) (a) Moisture content of a tobacco product is determined at the time of packaging.

(b) A manufacturer who distributes a tobacco product in, or into, Utah, shall:

(i) for a period of three years after the last day on which the manufacturer distributes the tobacco product in, or into, Utah, keep valid scientific evidence of the moisture content of the tobacco product available for review by the commission, upon demand; and

(ii) provide a document, to the person described in Subsection (3) to whom the manufacturer distributes the tobacco product, that certifies the moisture content of the tobacco product, as verified by the scientific evidence described in Subsection (7)(b)(i).

(c) A manufacturer who fails to comply with the requirements of Subsection (7)(b) is liable for the nonpayment or underpayment of taxes on the tobacco product by a person who relies, in good faith, on the document described in Subsection (7)(b)(ii).

(d) A person described in Subsection (3) who is required to pay tax on a tobacco product:

(i) shall, for a period of three years after the last day on which the person pays the tax on the tobacco product, keep the document described in Subsection (7)(b)(ii) available for review by the commission, upon demand; and

(ii) is not liable for nonpayment or underpayment of taxes on the tobacco product due to the person's good faith reliance on the document described in Subsection (7)(b)(ii).

Section 117. Section **63C-13-107** is amended to read:

63C-13-107. Compensation and expenses of authority members.

(1) Salaries and expenses of authority members who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, [~~Expense and Mileage Reimbursement for Authorized Legislative Meetings, Special Sessions, and Veto Override Sessions~~] Legislator Compensation.

(2) An authority member who is not a legislator may not receive compensation or benefits for the member's service on the authority, but may receive per diem and reimbursement for travel expenses incurred as an authority member at the rates established by the Division of Finance under:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 118. Section **63G-12-306** is amended to read:

63G-12-306. Penalties.

(1) As used in this section:

(a) "Applicable license" means a license issued under:

(i) Title 32B, Alcoholic Beverage Control Act;

(ii) Title 58, Occupations and Professions; or

(iii) Title 61, Securities Division - Real Estate Division.

(b) "First violation" means the first time the department imposes a penalty under this section, regardless of the number of individuals the private employer hired in violation of Subsection 63G-12-301(1).

(c) "Second violation" means the second time the department imposes a penalty under this section, regardless of the number of individuals the private employer hired in violation of Subsection 63G-12-301(1).

(d) "Third or subsequent violation" means a violation of Subsection 63G-12-301(1) committed after a second violation.

(2) (a) On or after the program start date, a private employer who violates Subsection 63G-12-301(1) is subject to a penalty provided in this section under an action brought by the department in accordance with Section [~~63B-12-305~~] 63G-12-305.

(b) For a first violation of Subsection 63G-12-301(1), the department shall impose a

civil penalty on the private employer not to exceed $100 for each individual employed by the private employer during the time period specified in the notice of agency action who is an unauthorized alien who does not hold a valid permit.

(c) For a second violation of Subsection 63G-12-301(1), the department shall impose a civil penalty on the private employer not to exceed $500 for each individual employed by the private employer during the time period specified in the notice of agency action who is an unauthorized alien who does not hold a valid permit.

(d) For a third or subsequent violation of Subsection [~~63-12-301~~] 63G-12-301(1), the department shall:

(i) order the revocation of the one or more applicable licenses that are issued to an owner, officer, director, manager, or other individual in a similar position for the private employer for a period not to exceed one year; or

(ii) if no individual described in Subsection (2)(d)(i) holds an applicable license, impose a civil penalty on the private employer not to exceed $10,000.

(3) (a) If the department finds a third or subsequent violation, the department shall notify the Department of Commerce and the Department of Alcoholic Beverage Control once the department's order:

(i) is not appealed, and the time to appeal has expired; or

(ii) is appealed, and is affirmed, in whole or in part on appeal.

(b) The notice required under Subsection (3)(a) shall state:

(i) that the department has found a third or subsequent violation;

(ii) that any applicable license held by an individual described in Subsection (2)(d)(i) is to be revoked; and

(iii) the time period for the revocation, not to exceed one year.

(c) The department shall base its determination of the length of revocation under this section on evidence or information submitted to the department during the action under which a third or subsequent violation is found, and shall consider the following factors, if relevant:

(i) the number of unauthorized aliens who do not hold a permit that are employed by the private employer;

(ii) prior misconduct by the private employer;

(iii) the degree of harm resulting from the violation;

(iv) whether the private employer made good faith efforts to comply with any applicable requirements;

(v) the duration of the violation;

(vi) the role of the individuals described in Subsection (2)(d)(i) in the violation; and

(vii) any other factor the department considers appropriate.

(4) Within 10 business days of receipt of notice under Subsection (3), the Department of Commerce and the Department of Alcoholic Beverage Control shall:

(a) (i) if the Department of Commerce or Alcoholic Beverage Control Commission has issued an applicable license to an individual described in Subsection (2)(d)(i), notwithstanding any other law, revoke the applicable license; and

(ii) notify the department that the applicable license is revoked; or

(b) if the Department of Commerce or Alcoholic Beverage Control Commission has not issued an applicable license to an individual described in Subsection (2)(d)(i), notify the department that an applicable license has not been issued to an individual described in Subsection (2)(d)(i).

(5) If an individual described in Subsection (2)(d)(i) is licensed to practice law in the state and the department finds a third or subsequent violation of Subsection 63G-12-301(1), the department shall notify the Utah State Bar of the third and subsequent violation.

Section 119. Section **63I-1-253** is amended to read:

63I-1-253. Repeal dates, Titles 53, 53A, and 53B.

The following provisions are repealed on the following dates:

(1) Section 53-3-232, Conditional [~~licenses~~] license, is repealed July 1, 2015.

(2) Title 53A, Chapter 1a, Part 6, Public Education Job Enhancement Program, is repealed July 1, 2020.

(3) The State Instructional Materials Commission, created in Section 53A-14-101, is repealed July 1, 2016.

(4) Subsections 53A-16-113(3) and (4) are repealed December 31, 2016.

(5) Section 53A-16-114 is repealed December 31, 2016.

(6) Section 53A-17a-163, Performance-based Compensation Pilot Program, is repealed July 1, 2016.

(7) Section 53B-24-402, Rural residency training program, is repealed July 1, 2015.

[~~(7)~~] (8) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells, other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

Section 120. Section **63I-1-263** is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63M.

(1) Section 63A-4-204, authorizing the Risk Management Fund to provide coverage to any public school district which chooses to participate, is repealed July 1, 2016.

(2) Subsections 63A-5-104(4)(d) and (e) are repealed on July 1, 2014.

(3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2016.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2018.

[~~(5) Section 53B-24-402, rural residency training program, is repealed July 1, 2015.~~]

[~~(6)~~] (5) Title 63C, Chapter 13, Prison Relocation and Development Authority Act, is repealed July 1, 2014.

[~~(7)~~] (6) Title 63C, Chapter 14, Federal Funds Commission, is repealed July 1, 2018.

[~~(8)~~] (7) Subsection 63G-6a-1402(7) authorizing certain transportation agencies to award a contract for a design-build transportation project in certain circumstances, is repealed July 1, 2015.

[~~(9)~~] (8) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2020.

[~~(10)~~] (9) The Resource Development Coordinating Committee, created in Section 63J-4-501, is repealed July 1, 2015.

[~~(11)~~] (10) Title 63M, Chapter 1, Part 4, Enterprise Zone Act, is repealed July 1, 2018.

[~~(12)~~] (11) (a) Title 63M, Chapter 1, Part 11, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection [~~(12)~~] (11)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections [~~(12)~~] (11)(b) and (c), a person may carry forward a tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

(i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

[~~(13)~~] (12) (a) Section 63M-1-2507, Health Care Compact, is repealed on July 1, 2014.

(b) (i) The Legislature shall, before reauthorizing the Health Care Compact:

(A) direct the Health System Reform Task Force to evaluate the issues listed in Subsection [~~(13)~~] (12)(b)(ii), and by January 1, 2013, develop and recommend criteria for the Legislature to use to negotiate the terms of the Health Care Compact; and

(B) prior to July 1, 2014, seek amendments to the Health Care Compact among the member states that the Legislature determines are appropriate after considering the recommendations of the Health System Reform Task Force.

(ii) The Health System Reform Task Force shall evaluate and develop criteria for the Legislature regarding:

(A) the impact of the Supreme Court ruling on the Affordable Care Act;

(B) whether Utah is likely to be required to implement any part of the Affordable Care Act prior to negotiating the compact with the federal government, such as Medicaid expansion in 2014;

(C) whether the compact's current funding formula, based on adjusted 2010 state expenditures, is the best formula for Utah and other state compact members to use for establishing the block grants from the federal government;

(D) whether the compact's calculation of current year inflation adjustment factor, without consideration of the regional medical inflation rate in the current year, is adequate to protect the state from increased costs associated with administering a state based Medicaid and a state based Medicare program;

(E) whether the state has the flexibility it needs under the compact to implement and fund state based initiatives, or whether the compact requires uniformity across member states that does not benefit Utah;

(F) whether the state has the option under the compact to refuse to take over the federal Medicare program;

(G) whether a state based Medicare program would provide better benefits to the elderly and disabled citizens of the state than a federally run Medicare program;

(H) whether the state has the infrastructure necessary to implement and administer a better state based Medicare program;

(I) whether the compact appropriately delegates policy decisions between the legislative and executive branches of government regarding the development and implementation of the compact with other states and the federal government; and

(J) the impact on public health activities, including communicable disease surveillance and epidemiology.

[~~(14)~~] (13) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2017.

[~~(15)~~] (14) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2017.

Section 121. Section **63I-2-217** is amended to read:

63I-2-217. Repeal dates -- Title 17.

(1) Subsection 17-8-7(2), the language that states "Sections 17-19-1 to 17-19-28 and" and ", as applicable," is repealed January 1, 2015.

(2) Title 17, Chapter 19, County Auditor, is repealed January 1, 2015.

(3) Subsection 17-24-1(4)(b), the language that states ", as applicable, Sections 17-19-1, 17-19-3, and 17-19-5 or" is repealed January 1, 2015.

(4) Subsection 17-24-4(2), the language that states ", as applicable, Subsection 17-19-3(3)(b) or" is repealed January 1, 2015.

[~~(5) Subsection 17-27a-305(2) is repealed July 1, 2013.~~]

[~~(6)~~] (5) (a) Subsection 17-36-3(5)(a), the language that states "for a county of the second, third, fourth, fifth, or sixth class, the county auditor, county clerk, or county executive as provided in Subsection 17-19-19(1); or" is repealed January 1, 2015.

(b) Subsection 17-36-3(5)(b), the language that states "for a county of the first class," is repealed January 1, 2015.

(c) Subsection 17-36-3(7), the language that states "17-19-3," and ", or [~~17-24-1.1~~] 17-24-4, as applicable" is repealed January 1, 2015.

[~~(7)~~] (6) Subsection 17-36-9(1)(a)(iii), the language that states "17-36-10.1, as applicable, or" is repealed January 1, 2015.

[~~(8)~~] (7) Subsection 17-36-10(1), the language that states the following is repealed January 1, 2015:

"(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.".

[~~(9)~~] (8) Section 17-36-10.1 is repealed January 1, 2015.

[~~(10)~~] (9) Subsection 17-36-11(1), the language that states the following is repealed January 1, 2015:

"(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.".

[~~(11)~~] (10) Section 17-36-11.1 is repealed January 1, 2015.

[~~(12)~~] (11) Subsection 17-36-15(1), the language that states the following is repealed January 1, 2015:

"(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.".

[~~(13)~~] (12) Section 17-36-15.1 is repealed January 1, 2015.

[~~(14)~~] (13) Subsection 17-36-20(1), the language that states the following is repealed January 1, 2015:

"(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.".

[~~(15)~~] (14) Section 17-36-20.1 is repealed January 1, 2015.

[~~(16)~~] (15) Subsection 17-36-32(4), the language that states "or 17-36-20.1, as applicable, and" is repealed January 1, 2015.

[~~(17)~~] (16) Subsection 17-36-43(1), the language that states the following is repealed January 1, 2015:

"(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.".

[~~(18)~~] (17) Section 17-36-43.1 is repealed January 1, 2015.

[~~(19)~~] (18) Section 17-36-44, the language that states "or 17-36-43.1, as applicable" is repealed January 1, 2015.

[~~(20)~~] (19) Subsection 17-50-401(1), the language that states the following is repealed January 1, 2015:

"(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.".

[~~(21)~~] (20) Section 17-50-401.1 is repealed January 1, 2015.

[~~(22)~~] (21) Subsection 17-52-101(2), the language that states "or 17-52-401.1, as applicable" is repealed January 1, 2015.

[~~(23)~~] (22) Subsection 17-52-401(1), the language that states the following is repealed January 1, 2015:

"(1)(a) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this section; and

(b) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this section.".

[~~(24)~~] (23) Section 17-52-401.1 is repealed January 1, 2015.

[~~(25)~~] (24) Subsection 17-52-403(1)(a), the language that states "or 17-52-401.1(2)(c),

as applicable" is repealed January 1, 2015.

[~~(26)~~] (25) On January 1, 2015, when making the changes in this section, the Office of Legislative Research and General Counsel shall:

(a) in addition to its authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent; and

(b) identify the text of the affected sections and subsections based upon the section and subsection numbers used in Laws of Utah 2012, Chapter 17.

Section 122. Section **63I-2-236** is amended to read:

63I-2-236. Repeal dates -- Title 36.

[~~(1)~~] Section 36-12-15.1 is repealed July 1, 2015.

[~~(2) Sections 36-16a-101 through 36-16a-108 are repealed January 1, 2013.~~]

Section 123. Section **63I-2-253** is amended to read:

63I-2-253. Repeal dates -- Titles 53, 53A, and 53B.

(1) Section 53A-1-402.7 is repealed July 1, 2014.

(2) Section 53A-1-403.5 is repealed July 1, 2017.

(3) Section 53A-1-411 is repealed July 1, 2016.

[~~(4) Section 53A-1-412 is repealed July 1, 2013.~~]

[~~(5)~~] (4) Section 53A-1a-513.5 is repealed July 1, 2017.

[~~(6)~~] (5) Title 53A, Chapter 1a, Part 10, UPSTART, is repealed July 1, 2014.

[~~(7)~~] (6) Title 53A, Chapter 8a, Part 8, Peer Assistance and Review Pilot Program, is repealed July 1, 2017.

[~~(8) Subsection 53A-13-110(4) is repealed July 1, 2013.~~]

[~~(9)~~] (7) Section 53A-17a-169 is repealed July 1, 2016.

Section 124. Section **63I-2-277** is amended to read:

63I-2-277. Repeal dates, Title 77.

[~~(1) Section 77-2a-3.1 is repealed June 30, 2008.~~]

[~~(2)~~] Subsection 77-32-304.5(2)(d)(i), the language that states "or 17-50-401.1, as applicable" is repealed January 1, 2015.

Section 125. Section **63I-4a-202** is amended to read:

63I-4a-202. Free Market Protection and Privatization Board -- Created --

Membership -- Operations -- Expenses.

(1) (a) There is created [~~a~~] the Free Market Protection and Privatization [~~Policy~~] Board composed of 17 members.

(b) The governor shall appoint board members as follows:

(i) two senators, one each from the majority and minority political parties, from names recommended by the president of the Senate;

(ii) two representatives, one each from the majority and minority political parties, from names recommended by the speaker of the House of Representatives;

(iii) two members representing public employees, from names recommended by the largest public employees' association;

(iv) one member from state management;

(v) seven members from the private business community;

(vi) one member representing the Utah League of Cities and Towns from names recommended by the Utah League of Cities and Towns;

(vii) one member representing the Utah Association of Counties from names recommended by the Utah Association of Counties; and

(viii) one member representing the Utah Association of Special Districts, from names recommended by the Utah Association of Special Districts.

(2) (a) Except as provided in Subsection (2)(b), a board member shall serve a two-year term.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every [~~two years~~] year.

(3) (a) A board member shall hold office until the board member's successor is appointed and qualified.

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

(c) Nine members of the board constitute a quorum.

(d) The vote of a majority of board members voting when a quorum is present is necessary for the board to act.

(4) (a) The board shall select one of the members to serve as chair of the board.

(b) A chair shall serve as chair for a term of one-year, and may be selected as chair for more than one term.

(5) The Governor's Office of Management and Budget shall staff the board. The board may contract for additional staff from the private sector under Section 63I-4a-204.

(6) The board shall meet:

(a) at least quarterly; and

(b) as necessary to conduct its business, as called by the chair.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 126. Section **63J-1-206** is amended to read:

63J-1-206. Appropriations governed by chapter -- Restrictions on expenditures -- Transfer of funds -- Exclusion.

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

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

(i) all money appropriated by the Legislature is appropriated upon the terms and conditions set forth in this chapter; and

(ii) any department, agency, or institution that accepts money appropriated by the Legislature does so subject to the requirements of this chapter.

(b) This section does not apply to:

(i) the Legislature and its committees; and

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

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

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

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

(ii) does not itself appropriate any money; and

(iii) is not itself an item of appropriation.

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

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

(e) In order for a department, agency, or institution to transfer money appropriated to it from one program to another program within an item of appropriation, the following procedure shall be followed:

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

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

(B) a written justification for the new work program that sets forth the purpose and necessity for the transfer.

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

(f) (i) Except as provided in Subsection (3)(f)(ii), money may not be transferred from one item of appropriation to any other item of appropriation.

(ii) The state superintendent may transfer money appropriated for the Minimum School Program between line items of appropriation in accordance with Section 53A-17a-105.

(g) (i) The procedures for transferring money between programs within an item of appropriation as provided by Subsection (3)(e) do not apply to money appropriated to the State Board of Education for the Minimum School Program or capital outlay programs created in Title 53A, Chapter 21, Public Education Capital Outlay Act.

(ii) The state superintendent may transfer money appropriated for the programs specified in Subsection (3)(g)(i) only as provided by Section 53A-17a-105.

Section 127. Section **63J-1-505** is amended to read:

63J-1-505. Payment of fees prerequisite to service -- Exception.

(1) (a) State and county officers required by law to charge fees may not perform any official service unless the fees prescribed for that service are paid in advance.

(b) When the fee is paid, the officer shall perform the services required.

(c) An officer is liable upon the officer's official bond for every failure or refusal to perform an official duty when the fees are tendered.

(2) (a) Except as provided in Subsection (2)(b), no fees may be charged:

(i) to the officer's state, or any county or subdivision of the state;

(ii) to any public officer acting for the state, county, or subdivision;

(iii) in cases of habeas corpus;

(iv) in criminal causes before final judgment;

(v) for administering and certifying the oath of office;

(vi) for swearing pensioners and their witnesses; or

(vii) for filing and recording bonds of public officers.

(b) Fees may be charged for payment:

(i) of recording fees for assessment area recordings in compliance with Section 11-42-205;

(ii) of recording fees for judgments recorded in compliance with Sections 57-3-106 and [~~78A-7-117~~] 78A-7-105; and

(iii) to the state engineer under Section 73-2-14.

Section 128. Section **63J-1-602.3** is amended to read:

63J-1-602.3. List of nonlapsing funds and accounts -- Title 46 through Title 60.

(1) Funding for the Search and Rescue Financial Assistance Program, as provided in Section [~~53-2a-1101~~] 53-2a-1102.

(2) Appropriations made to the Division of Emergency Management from the State Disaster Recovery Restricted Account, as provided in Section 53-2a-603.

(3) Appropriations made to the Department of Public Safety from the Department of Public Safety Restricted Account, as provided in Section 53-3-106.

(4) Appropriations to the Motorcycle Rider Education Program, as provided in Section 53-3-905.

(5) Appropriations from the Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(6) Appropriations from the DNA Specimen Restricted Account created in Section 53-10-407.

(7) The Canine Body Armor Restricted Account created in Section 53-16-201.

(8) Appropriations to the State Board of Education, as provided in Section 53A-17a-105.

(9) Money received by the State Office of Rehabilitation for the sale of certain products or services, as provided in Section 53A-24-105.

(10) Certain funds appropriated from the General Fund to the State Board of Regents for teacher preparation programs, as provided in Section 53B-6-104.

(11) Funding for the Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.

[~~(11)~~] (12) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

[~~(12)~~] (13) Certain surcharges on residential and business telephone numbers imposed by the Public Service Commission, as provided in Section 54-8b-10.

[~~(13)~~] (14) Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

[~~(14)~~] (15) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

[~~(15)~~] (16) Appropriations from the Relative Value Study Restricted Account created in Section 59-9-105.

[~~(16)~~] (17) The Cigarette Tax Restricted Account created in Section 59-14-204.

Section 129. Section **63J-1-602.4** is amended to read:

63J-1-602.4. List of nonlapsing funds and accounts -- Title 61 through Title 63M.

(1) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(2) Funds paid to the Division of Real Estate for the cost of a criminal background

check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(3) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

(4) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

(5) Appropriations from the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

(6) Appropriations to the Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(7) A portion of the funds appropriated to the Utah Seismic Safety Commission, as provided in Section 63C-6-104.

[~~(8) Funding for the Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.~~]

[~~(9)~~] (8) Certain money payable for commission expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63C-11-301.

[~~(10)~~] (9) Funds appropriated or collected for publishing the Division of Administrative Rules' publications, as provided in Section 63G-3-402.

[~~(11)~~] (10) The Immigration Act Restricted Account created in Section 63G-12-103.

[~~(12)~~] (11) Money received by the military installation development authority, as provided in Section 63H-1-504.

[~~(13) The appropriation~~] (12) Appropriations to fund the Governor's Office of Economic Development's Enterprise Zone Act, as provided in [~~Section 63M-1-416~~] Title 63M, Chapter 1, Part 4, Enterprise Zone Act.

[~~(14)~~] (13) The Motion Picture Incentive Account created in Section 63M-1-1803.

[~~(15)~~] (14) Appropriations to the Utah Science Technology and Research Governing Authority, created under Section 63M-2-301, as provided under Section 63M-2-302.

Section 130. Section **63M-1-3203** is amended to read:

63M-1-3203. STEM Action Center Board -- Duties.

(1) The board shall:

(a) establish a STEM Action Center [~~program~~] to:

(i) coordinate STEM activities in the state among the following stakeholders:

(A) the State Board of Education;

(B) school districts and charter schools;

(C) the State Board of Regents;

(D) institutions of higher education;

(E) parents of home-schooled students; and

(F) other state agencies;

(ii) align public education STEM activities with higher education STEM activities; and

(iii) create and coordinate best practices among public education and higher education;

(b) with the consent of the Senate, appoint an executive director to oversee the administration of the STEM Action Center;

(c) select a physical location for the STEM Action Center;

(d) strategically engage industry and business entities to cooperate with the board:

(i) to support professional development and provide other assistance for educators and students; and

(ii) to provide private funding and support for the STEM Action Center;

(e) give direction to the STEM Action Center and the providers selected through a request for proposals process pursuant to this part; and

(f) work to meet the following expectations:

(i) that at least 50 educators are implementing best practice learning tools in classrooms per each product specialist or manager working with the STEM Action Center;

(ii) performance change in student achievement in each classroom working with a STEM Action Center product specialist or manager; and

(iii) that students from at least 50 high schools participate in the STEM competitions, fairs, and camps described in Subsection 63M-1-3204(2)(d).

(2) The board may:

(a) enter into contracts for the purposes of this part;

(b) apply for, receive, and disburse funds, contributions, or grants from any source for the purposes set forth in this part;

(c) employ, compensate, and prescribe the duties and powers of individuals necessary to execute the duties and powers of the board;

(d) prescribe the duties and powers of the STEM Action Center providers; and

(e) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to administer this part.

Section 131. Section **70A-2a-533** is amended to read:

70A-2a-533. Effective date.

(1) Except as provided in Subsection (2), this act takes effect on July 1, 1990 and shall apply to all lease contracts that are first made or that first become effective between the parties on or after that date, but shall not apply to lease contracts first made or that first became effective prior to that date unless the parties thereto specifically agree in writing that the lease contract as extended, amended, modified, renewed or supplemented, shall be governed by applicable law as supplemented or amended by this act. Absent such specific agreement transactions validly entered into before that date and the rights, duties, and interests flowing from them remain valid thereafter and may be terminated, completed, consummated or enforced as though this act had not taken effect.

(2) The amendments to former Sections 70A-1-201, 70A-9-113, 70A-9-306, and 70A-9-318 take effect on July 1, 1990.

Section 132. Section **76-1-501** is amended to read:

76-1-501. Presumption of innocence -- "Element of the offense" defined.

(1) A defendant in a criminal proceeding is presumed to be innocent until each element of the offense charged against him is proved beyond a reasonable doubt. In the absence of this proof, the defendant shall be acquitted.

(2) As used in this part [~~the words~~], "element of the offense" [~~mean~~] means:

(a) the conduct, attendant circumstances, or results of conduct proscribed, prohibited, or forbidden in the definition of the offense; and

(b) the culpable mental state required.

(3) The existence of jurisdiction and venue are not elements of the offense but shall be established by a preponderance of the evidence.

Section 133. Section **76-5-102.4** is amended to read:

76-5-102.4. Assault against peace officer or a military servicemember in uniform -- Penalties.

(1) As used in this section:

(a) "Military servicemember in uniform" means:

(i) a member of any branch of the United States military who is wearing a uniform as authorized by the member's branch of service; or

(ii) a member of the National Guard serving as provided in Section 39-1-5 or 39-1-9.

(b) "Peace officer" means a law enforcement officer certified under Section 53-13-103.

(2) A person is guilty of a class A misdemeanor, except as provided in Subsections (3) and (4), who:

(a) assaults a peace officer, with knowledge that the person is a peace officer, and when the peace officer is acting within the scope of authority as a peace officer; or

(b) assaults a military servicemember in uniform when that servicemember is on orders and acting within the scope of authority granted to the military servicemember in uniform.

(3) A person who violates Subsection (2) is guilty of a third degree felony if the person:

(a) has been previously convicted of a [~~violation of a~~] class A misdemeanor or a felony violation of this section; or

(b) the person causes substantial bodily injury.

(4) A person who violates Subsection (2) is guilty of a second degree felony if the person uses:

(a) a dangerous weapon as defined in Section 76-1-601; or

(b) other means or force likely to produce death or serious bodily injury.

(5) A person who violates this section shall serve, in jail or another correctional facility, a minimum of:

(a) 90 consecutive days for a second offense; and

(b) 180 consecutive days for each subsequent offense.

(6) The court may suspend the imposition or execution of the sentence required under Subsection (5) if the court finds that the interests of justice would be best served by the suspension and the court makes specific findings concerning the disposition on the record.

(7) This section does not affect or limit any individual's constitutional right to the lawful expression of free speech, the right of assembly, or any other recognized rights secured by the Constitution or laws of Utah or by the Constitution or laws of the United States.

Section 134. Section **78A-2-301** is amended to read:

78A-2-301. Civil fees of the courts of record -- Courts complex design.

(1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a court of record not governed by another subsection is $360.

(b) The fee for filing a complaint or petition is:

(i) $75 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is $2,000 or less;

(ii) $185 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than $2,000 and less than $10,000;

(iii) $360 if the claim for damages or amount in interpleader is $10,000 or more;

(iv) $310 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance;

(v) $35 for a motion for temporary separation order filed under Section 30-3-4.5; and

(vi) $125 if the petition is for removal from the Sex Offender and Kidnap Offender Registry under [~~Subsection 77-27-21.5(32)~~] Section 77-41-112.

(c) The fee for filing a small claims affidavit is:

(i) $60 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is $2,000 or less;

(ii) $100 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than $2,000, but less than $7,500; and

(iii) $185 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is $7,500 or more.

(d) The fee for filing a counter claim, cross claim, complaint in intervention, third party complaint, or other claim for relief against an existing or joined party other than the original complaint or petition is:

(i) $55 if the claim for relief exclusive of court costs, interest, and attorney fees is $2,000 or less;

(ii) $150 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than $2,000 and less than $10,000;

(iii) $155 if the original petition is filed under Subsection (1)(a), the claim for relief is $10,000 or more, or the party seeks relief other than monetary damages; and

(iv) $115 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30,

Chapter 4, Separate Maintenance.

(e) The fee for filing a small claims counter affidavit is:

(i) $50 if the claim for relief exclusive of court costs, interest, and attorney fees is $2,000 or less;

(ii) $70 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than $2,000, but less than $7,500; and

(iii) $120 if the claim for relief exclusive of court costs, interest, and attorney fees is $7,500 or more.

(f) The fee for depositing funds under Section 57-1-29 when not associated with an action already before the court is determined under Subsection (1)(b) based on the amount deposited.

(g) The fee for filing a petition is:

(i) $225 for trial de novo of an adjudication of the justice court or of the small claims department; and

(ii) $65 for an appeal of a municipal administrative determination in accordance with Section 10-3-703.7.

(h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or petition for writ of certiorari is $225.

(i) The fee for filing a petition for expungement is $135.

(j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges' Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges' Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement Act.

(ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be allocated by the state treasurer to be deposited in the restricted account, Children's Legal Defense Account, as provided in Section 51-9-408.

(iii) Three dollars of the fees established under Subsections (1)(a) through (e), (1)(g), and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account as provided in Section 78B-6-209.

(iv) Fifteen dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv),

(1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court Security Account, as provided in Section 78A-2-602.

(v) Five dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and (1)(g)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court Security Account, as provided in Section 78A-2-602.

(k) The fee for filing a judgment, order, or decree of a court of another state or of the United States is $35.

(l) The fee for filing a renewal of judgment in accordance with Section 78B-6-1801 is 50% of the fee for filing an original action seeking the same relief.

(m) The fee for filing probate or child custody documents from another state is $35.

(n) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the Utah State Tax Commission is $30.

(ii) The fee for filing an abstract or transcript of judgment of a court of law of this state or a judgment, order, or decree of an administrative agency, commission, board, council, or hearing officer of this state or of its political subdivisions other than the Utah State Tax Commission, is $50.

(o) The fee for filing a judgment by confession without action under Section 78B-5-205 is $35.

(p) The fee for filing an award of arbitration for confirmation, modification, or vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an action before the court is $35.

(q) The fee for filing a petition or counter-petition to modify a decree of divorce is $100.

(r) The fee for filing any accounting required by law is:

(i) $15 for an estate valued at $50,000 or less;

(ii) $30 for an estate valued at $75,000 or less but more than $50,000;

(iii) $50 for an estate valued at $112,000 or less but more than $75,000;

(iv) $90 for an estate valued at $168,000 or less but more than $112,000; and

(v) $175 for an estate valued at more than $168,000.

(s) The fee for filing a demand for a civil jury is $250.

(t) The fee for filing a notice of deposition in this state concerning an action pending in

another state under Utah Rule of Civil Procedure 26 is $35.

(u) The fee for filing documents that require judicial approval but are not part of an action before the court is $35.

(v) The fee for a petition to open a sealed record is $35.

(w) The fee for a writ of replevin, attachment, execution, or garnishment is $50 in addition to any fee for a complaint or petition.

(x) (i) The fee for a petition for authorization for a minor to marry required by Section 30-1-9 is $5.

(ii) The fee for a petition for emancipation of a minor provided in Title 78A, Chapter 6, Part 8, Emancipation, is $50.

(y) The fee for a certificate issued under Section 26-2-25 is $8.

(z) The fee for a certified copy of a document is $4 per document plus 50 cents per page.

(aa) The fee for an exemplified copy of a document is $6 per document plus 50 cents per page.

(bb) The Judicial Council shall by rule establish a schedule of fees for copies of documents and forms and for the search and retrieval of records under Title 63G, Chapter 2, Government Records Access and Management Act. Fees under this Subsection (1)(bb) shall be credited to the court as a reimbursement of expenditures.

(cc) There is no fee for services or the filing of documents not listed in this section or otherwise provided by law.

(dd) Except as provided in this section, all fees collected under this section are paid to the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk accepts the pleading for filing or performs the requested service.

(ee) The filing fees under this section may not be charged to the state, its agencies, or political subdivisions filing or defending any action. In judgments awarded in favor of the state, its agencies, or political subdivisions, except the Office of Recovery Services, the court shall order the filing fees and collection costs to be paid by the judgment debtor. The sums collected under this Subsection (1)(ee) shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.

(2) (a) (i) From March 17, 1994, until June 30, 1998, the administrator of the courts

shall transfer all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of Facilities Construction and Management Capital Projects Fund.

(ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities Construction and Management shall use up to $3,750,000 of the revenue deposited in the Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to initiate the development of a courts complex in Salt Lake City.

(B) If the Legislature approves funding for construction of a courts complex in Salt Lake City in the 1995 Annual General Session, the Division of Facilities Construction and Management shall use the revenue deposited in the Capital Projects Fund under this Subsection (2)(a)(ii) to construct a courts complex in Salt Lake City.

(C) After the courts complex is completed and all bills connected with its construction have been paid, the Division of Facilities Construction and Management shall use any money remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal District Court building.

(iii) The Division of Facilities Construction and Management may enter into agreements and make expenditures related to this project before the receipt of revenues provided for under this Subsection (2)(a)(iii).

(iv) The Division of Facilities Construction and Management shall:

(A) make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund; and

(B) reimburse the Capital Projects Fund upon receipt of the revenues provided for under this Subsection (2).

(b) After June 30, 1998, the administrator of the courts shall ensure that all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted account.

(c) The Division of Finance shall deposit all revenues received from the court administrator into the restricted account created by this section.

(d) (i) From May 1, 1995, until June 30, 1998, the administrator of the courts shall transfer $7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor

Vehicles, in a court of record to the Division of Facilities Construction and Management Capital Projects Fund. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

(ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer $7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Finance for deposit in the restricted account created by this section. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

(3) (a) There is created within the General Fund a restricted account known as the State Courts Complex Account.

(b) The Legislature may appropriate money from the restricted account to the administrator of the courts for the following purposes only:

(i) to repay costs associated with the construction of the court complex that were funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

(ii) to cover operations and maintenance costs on the court complex.

Section 135. Section **78A-7-301** is amended to read:

78A-7-301. Justice Court Technology, Security, and Training Account established -- Funding -- Uses.

There is created a restricted account in the General Fund known as the Justice Court Technology, Security, and Training Account.

(1) The state treasurer shall deposit in the account money collected from the surcharge established in Subsection [~~78A-6-122(3)~~] 78A-7-122(4)(b)(iii).

(2) Money shall be appropriated from the account to the Administrative Office of the Courts to be used for audit, technology, security, and training needs in justice courts throughout the state.

Section 136. Section **78B-3-421** is amended to read:

78B-3-421. Arbitration agreements.

(1) After May 2, 1999, for a binding arbitration agreement between a patient and a health care provider to be validly executed or, if the requirements of this Subsection (1) have not been previously met on at least one occasion, renewed:

(a) the patient shall be given, in writing, the following information on:

(i) the requirement that the patient must arbitrate a claim instead of having the claim heard by a judge or jury;

(ii) the role of an arbitrator and the manner in which arbitrators are selected under the agreement;

(iii) the patient's responsibility, if any, for arbitration-related costs under the agreement;

(iv) the right of the patient to decline to enter into the agreement and still receive health care if Subsection (3) applies;

(v) the automatic renewal of the agreement each year unless the agreement is canceled in writing before the renewal date;

(vi) the right of the patient to have questions about the arbitration agreement answered;

(vii) the right of the patient to rescind the agreement within 10 days of signing the agreement; and

(viii) the right of the patient to require mediation of the dispute prior to the arbitration of the dispute;

(b) the agreement shall require that:

(i) except as provided in Subsection (1)(b)(ii), a panel of three arbitrators shall be selected as follows:

(A) one arbitrator collectively selected by all persons claiming damages;

(B) one arbitrator selected by the health care provider; and

(C) a third arbitrator:

(I) jointly selected by all persons claiming damages and the health care provider; or

(II) if both parties cannot agree on the selection of the third arbitrator, the other two arbitrators shall appoint the third arbitrator from a list of individuals approved as arbitrators by the state or federal courts of Utah; or

(ii) if both parties agree, a single arbitrator may be selected;

(iii) all parties waive the requirement of Section 78B-3-416 to appear before a hearing panel in a malpractice action against a health care provider;

(iv) the patient be given the right to rescind the agreement within 10 days of signing the agreement;

(v) the term of the agreement be for one year and that the agreement be automatically renewed each year unless the agreement is canceled in writing by the patient or health care

provider before the renewal date;

(vi) the patient has the right to retain legal counsel;

(vii) the agreement only apply to:

(A) an error or omission that occurred after the agreement was signed, provided that the agreement may allow a person who would be a proper party in court to participate in an arbitration proceeding;

(B) the claim of:

(I) a person who signed the agreement;

(II) a person on whose behalf the agreement was signed under Subsection (6); and

(III) the unborn child of the person described in this Subsection (1)(b)(vii)(B), for 12 months from the date the agreement is signed; and

(C) the claim of a person who is not a party to the contract if the sole basis for the claim is an injury sustained by a person described in Subsection (1)(b)(vii)(B); and

(c) the patient shall be verbally encouraged to:

(i) read the written information required by Subsection (1)(a) and the arbitration agreement; and

(ii) ask any questions.

(2) When a medical malpractice action is arbitrated, the action shall:

(a) be subject to Chapter [~~31a~~] 11, Utah Uniform Arbitration Act; and

(b) include any one or more of the following when requested by the patient before an arbitration hearing is commenced:

(i) mandatory mediation;

(ii) retention of the jointly selected arbitrator for both the liability and damages stages of an arbitration proceeding if the arbitration is bifurcated; and

(iii) the filing of the panel's award of damages as a judgement against the provider in the appropriate district court.

(3) Notwithstanding Subsection (1), a patient may not be denied health care on the sole basis that the patient or a person described in Subsection (6) refused to enter into a binding arbitration agreement with a health care provider.

(4) A written acknowledgment of having received a written explanation of a binding arbitration agreement signed by or on behalf of the patient shall be a defense to a claim that the

patient did not receive a written explanation of the agreement as required by Subsection (1) unless the patient:

(a) proves that the person who signed the agreement lacked the capacity to do so; or

(b) shows by clear and convincing evidence that the execution of the agreement was induced by the health care provider's affirmative acts of fraudulent misrepresentation or fraudulent omission to state material facts.

(5) The requirements of Subsection (1) do not apply to a claim governed by a binding arbitration agreement that was executed or renewed before May 3, 1999.

(6) A legal guardian or a person described in Subsection 78B-3-406(6), except a person temporarily standing in loco parentis, may execute or rescind a binding arbitration agreement on behalf of a patient.

(7) This section does not apply to any arbitration agreement that is subject to the Federal Arbitration Act, 9 U.S.C. Sec. 1 et seq.

Section 137. **Repealer.**

This bill repeals:

Section **63G-13-203, Collaboration on integration of immigrants.**

Section 138. **Effective date.**

This bill takes effect on May 13, 2014, except that the amendments in this bill to Section 57-8-7.5 (Effective 07/01/14) take effect on July 1, 2014.

Legislative Review Note
as of 1-29-14 8:42 AM

Office of Legislative Research and General Counsel