

1                   **OFFICE OF REHABILITATION SERVICES AMENDMENTS**

2                                   2016 GENERAL SESSION

3                                   STATE OF UTAH

4                   **Chief Sponsor: Norman K Thurston**

5                   Senate Sponsor: Allen M. Christensen

6   Cosponsors:                   Michael S. Kennedy                   Robert M. Spendlove  
7   Steve Eliason                   Paul Ray

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9   **LONG TITLE**

10 **General Description:**

11           This bill modifies the State Office of Rehabilitation Act and related provisions.

12 **Highlighted Provisions:**

13           This bill:

14           ▶ moves the Utah State Office of Rehabilitation from the State Board of Education to  
15 the Department of Workforce Services;

16           ▶ modifies provisions related to the Governor's Committee on Employment of People  
17 with Disabilities, including that the governor appoint certain members of the  
18 committee;

19           ▶ describes duties of the Utah State Office of Rehabilitation that may not be delegated  
20 to other state government entities;

21           ▶ modifies provisions related to certified interpreters;

22           ▶ modifies references to individuals who are hard of hearing;

23           ▶ requires the Department of Workforce Services and the Utah State Office of  
24 Rehabilitation to create a written transition plan;

25           ▶ creates an Office of Rehabilitation Transition Restricted Account; and

26           ▶ makes technical and conforming changes.

27 **Money Appropriated in this Bill:**

28           This bill appropriates:

29           ▶ To the Department of Workforce Services -- Utah State Office of Rehabilitation, as  
30 an ongoing appropriation:

31           • from General Fund Restricted -- Office of Rehabilitation Transition Restricted  
32 Account, \$26,385,100;

33           • from Federal Funds, \$62,656,000;

34           • from Dedicated Credits Revenue, \$985,600.

35           ▶ To State Board of Education -- Utah State Office of Rehabilitation, as a one-time  
36 appropriation:

37           • from General Fund Restricted -- Office of Rehabilitation Transition Restricted  
38 Account, \$26,385,100.

39           ▶ To General Fund Restricted -- Office of Rehabilitation Transition Restricted  
40 Account, as a one-time appropriation:

41           • from General Fund, \$21,385,100;

42           • from Beginning Nonlapsing Appropriation Balances, \$5,000,000.

43 **Other Special Clauses:**

44           This bill provides a special effective date.

45 **Utah Code Sections Affected:**

46 AMENDS:

47           **20A-14-103**, as last amended by Laws of Utah 2011, Third Special Session, Chapter 3

48           **34A-2-413.5**, as enacted by Laws of Utah 2014, Chapter 286

49           **35A-1-202**, as last amended by Laws of Utah 2012, Chapter 212

50           **35A-1-206**, as last amended by Laws of Utah 2014, Chapters 371 and 387

51           **53A-1-403.5**, as last amended by Laws of Utah 2012, Chapter 23

52           **53A-1a-501.7**, as last amended by Laws of Utah 2008, Chapter 319

53           **53A-11-203**, as last amended by Laws of Utah 2015, Chapter 126

54           **54-8b-10**, as last amended by Laws of Utah 2012, Chapter 347

55           **55-5-2**, as last amended by Laws of Utah 2011, Chapter 297

56           **55-5-7**, as last amended by Laws of Utah 1997, Chapter 10

- 57 **55-5-8**, as last amended by Laws of Utah 1996, Chapter 37
- 58 **55-5a-2**, as last amended by Laws of Utah 1996, Chapter 37
- 59 **55-5a-3**, as last amended by Laws of Utah 1996, Chapter 37
- 60 **55-5a-4**, as last amended by Laws of Utah 1979, Chapter 191
- 61 **55-5a-5**, as last amended by Laws of Utah 1979, Chapter 191
- 62 **62A-5a-102**, as last amended by Laws of Utah 2002, Fifth Special Session, Chapter 8
- 63 **62A-5a-103**, as last amended by Laws of Utah 2010, Chapter 286
- 64 **62A-5a-105**, as last amended by Laws of Utah 1996, Chapter 179
- 65 **63B-19-201**, as enacted by Laws of Utah 2010, Chapter 100
- 66 **63G-6a-805**, as last amended by Laws of Utah 2013, Chapter 445
- 67 **63I-2-253**, as last amended by Laws of Utah 2015, Chapters 258, 418, and 456
- 68 **63J-1-601**, as last amended by Laws of Utah 2015, Chapter 239
- 69 **63J-1-602.3**, as last amended by Laws of Utah 2014, Chapters 189 and 304
- 70 **78B-1-203**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 71 **78B-1-206**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 72 **78B-1-208**, as renumbered and amended by Laws of Utah 2008, Chapter 3

73 ENACTS:

- 74 **35A-13-201**, Utah Code Annotated 1953
- 75 **35A-13-301**, Utah Code Annotated 1953
- 76 **35A-13-401**, Utah Code Annotated 1953
- 77 **35A-13-402**, Utah Code Annotated 1953
- 78 **35A-13-501**, Utah Code Annotated 1953
- 79 **35A-13-502**, Utah Code Annotated 1953
- 80 **53A-24-601**, Utah Code Annotated 1953
- 81 **53A-24-602**, Utah Code Annotated 1953

82 RENUMBERS AND AMENDS:

- 83 **35A-13-101**, (Renumbered from 53A-24-101, as repealed and reenacted by Laws of
- 84 Utah 1988, Chapter 83)

85           **35A-13-102**, (Renumbered from 53A-24-102, as last amended by Laws of Utah 2001,  
86 First Special Session, Chapter 5)  
87           **35A-13-103**, (Renumbered from 53A-24-103, as last amended by Laws of Utah 2001,  
88 First Special Session, Chapter 5)  
89           **35A-13-104**, (Renumbered from 53A-24-104, as repealed and reenacted by Laws of  
90 Utah 1988, Chapter 83)  
91           **35A-13-105**, (Renumbered from 53A-24-106, as repealed and reenacted by Laws of  
92 Utah 1988, Chapter 83)  
93           **35A-13-106**, (Renumbered from 53A-24-107, as repealed and reenacted by Laws of  
94 Utah 1988, Chapter 83)  
95           **35A-13-107**, (Renumbered from 53A-24-108, as repealed and reenacted by Laws of  
96 Utah 1988, Chapter 83)  
97           **35A-13-108**, (Renumbered from 53A-24-109, as last amended by Laws of Utah 1996,  
98 Chapter 37)  
99           **35A-13-109**, (Renumbered from 53A-24-110, as last amended by Laws of Utah 1996,  
100 Chapter 37)  
101           **35A-13-202**, (Renumbered from 53A-24-105, as last amended by Laws of Utah 2011,  
102 Chapter 303)  
103           **35A-13-203**, (Renumbered from 53A-24-106.5, as enacted by Laws of Utah 2011,  
104 Chapter 169)  
105           **35A-13-302**, (Renumbered from 53A-24-114, as last amended by Laws of Utah 2008,  
106 Chapter 382)  
107           **35A-13-303**, (Renumbered from 53A-24-205, as last amended by Laws of Utah 1996,  
108 Chapter 37)  
109           **35A-13-403**, (Renumbered from 53A-24-304, as last amended by Laws of Utah 1996,  
110 Chapter 37)  
111           **35A-13-404**, (Renumbered from 53A-24-305, as last amended by Laws of Utah 1996,  
112 Chapter 37)

- 113            **35A-13-503**, (Renumbered from 53A-24-404, as last amended by Laws of Utah 1990,  
114 Chapter 78)
- 115            **35A-13-504**, (Renumbered from 53A-24-405, as last amended by Laws of Utah 1990,  
116 Chapter 78)
- 117            **35A-13-601**, (Renumbered from 53A-26a-101, as enacted by Laws of Utah 1994,  
118 Chapter 306)
- 119            **35A-13-602**, (Renumbered from 53A-26a-102, as last amended by Laws of Utah 2013,  
120 Chapter 385)
- 121            **35A-13-603**, (Renumbered from 53A-26a-201, as enacted by Laws of Utah 1994,  
122 Chapter 306)
- 123            **35A-13-604**, (Renumbered from 53A-26a-202, as enacted by Laws of Utah 1994,  
124 Chapter 306)
- 125            **35A-13-605**, (Renumbered from 53A-26a-301, as last amended by Laws of Utah 2013,  
126 Chapter 385)
- 127            **35A-13-606**, (Renumbered from 53A-26a-302, as last amended by Laws of Utah 2009,  
128 Chapter 183)
- 129            **35A-13-607**, (Renumbered from 53A-26a-303, as enacted by Laws of Utah 1994,  
130 Chapter 306)
- 131            **35A-13-608**, (Renumbered from 53A-26a-304, as enacted by Laws of Utah 1994,  
132 Chapter 306)
- 133            **35A-13-609**, (Renumbered from 53A-26a-305, as last amended by Laws of Utah 2013,  
134 Chapter 385)
- 135            **35A-13-610**, (Renumbered from 53A-26a-401, as enacted by Laws of Utah 1994,  
136 Chapter 306)
- 137            **35A-13-611**, (Renumbered from 53A-26a-501, as enacted by Laws of Utah 1994,  
138 Chapter 306)
- 139            **35A-13-612**, (Renumbered from 53A-26a-502, as enacted by Laws of Utah 1994,  
140 Chapter 306)

141 53A-13-613, (Renumbered from 53A-26a-503, as enacted by Laws of Utah 1994,  
142 Chapter 306)

143 REPEALS:

- 144 53A-15-205, as last amended by Laws of Utah 2013, Chapter 167
- 145 53A-24-110.5, as last amended by Laws of Utah 1998, Chapter 403
- 146 53A-24-110.7, as last amended by Laws of Utah 2001, Chapter 328
- 147 53A-24-201, as enacted by Laws of Utah 1988, Chapter 83
- 148 53A-24-202, as enacted by Laws of Utah 1988, Chapter 83
- 149 53A-24-203, as enacted by Laws of Utah 1988, Chapter 83
- 150 53A-24-204, as last amended by Laws of Utah 1996, Chapter 37
- 151 53A-24-301, as last amended by Laws of Utah 1996, Chapter 37
- 152 53A-24-302, as last amended by Laws of Utah 1996, Chapter 37
- 153 53A-24-303, as last amended by Laws of Utah 1996, Chapter 37
- 154 53A-24-401, as enacted by Laws of Utah 1988, Chapter 83
- 155 53A-24-402, as last amended by Laws of Utah 1990, Chapter 78
- 156 53A-24-403, as last amended by Laws of Utah 1990, Chapter 78
- 157 53A-24-501, as enacted by Laws of Utah 1988, Chapter 83
- 158 53A-24-502, as last amended by Laws of Utah 1993, Chapter 4
- 159 53A-24-503, as last amended by Laws of Utah 1993, Chapter 4



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

162 Section 1. Section 20A-14-103 is amended to read:

163 **20A-14-103. State Board of Education members -- When elected -- Qualifications**  
164 **-- Avoiding conflicts of interest.**

165 (1) (a) Unless otherwise provided by law, each State Board of Education member  
166 elected from a State Board of Education District at the 2010 general election shall:

- 167 (i) serve out the term of office for which that member was elected; and
- 168 (ii) represent the realigned district if the member resides in that district.

169 (b) At the general election to be held in 2012, a State Board of Education member  
170 elected from State Board of Education Districts 4, 7, 8, 10, 11, 12, 13, and 15 shall be elected  
171 to serve a term of office of four years.

172 (c) In order to ensure that the terms of approximately half of the State Board of  
173 Education members expire every two years:

174 (i) at the general election to be held in 2012, the State Board of Education member  
175 elected from State Board of Education District 1 shall be elected to serve a term of office of  
176 two years; and

177 (ii) at the general election to be held in 2014, the State Board of Education member  
178 elected from State Board of Education District 1 shall be elected to serve a term of office of  
179 four years.

180 (2) (a) A person seeking election to the State Board of Education shall have been a  
181 resident of the State Board of Education district in which the person is seeking election for at  
182 least one year as of the date of the election.

183 (b) A person who has resided within the State Board of Education district, as the  
184 boundaries of the district exist on the date of the election, for one year immediately preceding  
185 the date of the election shall be considered to have met the requirements of this Subsection (2).

186 (3) A State Board of Education member shall:

187 (a) be and remain a registered voter in the State Board of Education district from which  
188 the member was elected or appointed; and

189 (b) maintain the member's primary residence within the State Board of Education  
190 district from which the member was elected or appointed during the member's term of office.

191 (4) A State Board of Education member may not, during the member's term of office,  
192 also serve as an employee of:

193 (a) the State Board of Education; or

194 (b) the Utah State Office of Education[~~or~~].

195 [~~(c) the Utah State Office of Rehabilitation.~~]

196 Section 2. Section ~~34A-2-413.5~~ is amended to read:

197 **34A-2-413.5. Injured worker reemployment.**

198 (1) As used in this section:

199 (a) (i) "Gainful employment" means employment that:

200 (A) is reasonably attainable in view of an industrial injury or occupational disease; and

201 (B) offers to an injured worker, as reasonably feasible, an opportunity for earnings.

202 (ii) Factors considered in determining gainful employment include an injured worker's:

203 (A) education;

204 (B) experience; and

205 (C) physical and mental impairment and condition.

206 (b) "Initial written report" means a report described in Subsection (5).

207 (c) "Injured worker" means an employee who sustains an industrial injury or

208 occupational disease for which benefits are provided under this chapter or Chapter 3, Utah

209 Occupational Disease Act.

210 (d) "Injured worker with a disability" means an injured worker who:

211 (i) because of the injury or disease that is the basis of the employee being an injured  
212 worker:

213 (A) is or will be unable to return to work in the injured worker's usual and customary  
214 occupation; or

215 (B) is unable to perform work for which the injured worker has previous training and  
216 experience; and

217 (ii) reasonably can be expected to attain gainful employment after an evaluation  
218 provided for in accordance with this section.

219 (e) "Parties" means:

220 (i) an injured worker with a disability;

221 (ii) the employer of the injured worker with a disability;

222 (iii) the employer's workers' compensation insurance carrier; and

223 (iv) a rehabilitation or reemployment professional for the employer or the employer's  
224 workers' compensation insurance carrier.

225 (f) "Reemployment plan" means a written:  
226 (i) description or rationale for the manner and means by which it is proposed an injured  
227 worker with a disability may return to gainful employment; and  
228 (ii) definition of the voluntary responsibilities of:  
229 (A) the injured worker with a disability;  
230 (B) the employer; and  
231 (C) one or more other parties involved with the implementation of the reemployment  
232 plan.  
233 (2) (a) This section applies only to an industrial injury or occupational disease that  
234 occurs on or after July 1, 1990.  
235 (b) This section is intended to promote and monitor the state's and the employer's  
236 capacity to assist the injured worker in returning to the workforce by evaluating the  
237 effectiveness of the voluntary efforts of employers under this section.  
238 (3) This section does not affect the duties of the Utah State Office of Rehabilitation  
239 created in Section [35A-1-202](#).  
240 (4) The commission may provide for the administration of this section by rule in  
241 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.  
242 (5) An employer or the employer's workers' compensation insurance carrier may  
243 voluntarily prepare an initial written report assessing an injured worker's need or lack of need  
244 for vocational assistance in reemployment if:  
245 (a) it appears that the injured worker is or will be an injured worker with a disability; or  
246 (b) the period of the injured worker's temporary total disability compensation period  
247 exceeds 90 days.  
248 (6) (a) Subject to Subsection (6)(b), an employer or the employer's workers'  
249 compensation insurance carrier may serve the initial written report, if one has been prepared,  
250 on the injured worker.  
251 (b) If an employer or the employer's workers' compensation insurance carrier serves an  
252 initial written report on an injured worker, the employer or the employer's workers'

253 compensation insurance carrier shall comply with Subsection (6)(a) by no later than 30 days  
254 after the earlier of the day on which:

- 255 (i) it appears that the injured worker is or will be an injured worker with a disability; or
- 256 (ii) the 90-day period described in Subsection (5)(b) ends.

257 (7) With the initial written report, if one is prepared and used in the determination  
258 process, an employer or the employer's workers' compensation insurance carrier shall provide  
259 an injured worker information regarding reemployment.

260 (8) Subject to the other provisions of this section, if an injured worker is an injured  
261 worker with a disability, the employer or the employer's workers' compensation insurance  
262 carrier may, within 10 days after the day on which the employer or workers' compensation  
263 insurance carrier serves the initial written report on the injured worker, refer the injured worker  
264 with a disability to:

- 265 (a) the Utah State Office of Rehabilitation; or
- 266 (b) at the employer's or workers' compensation insurance carrier's option, a private  
267 rehabilitation or reemployment service.

268 (9) An employer or the employer's workers' compensation insurance carrier shall make  
269 the referral required by Subsection (8) for the purpose of:

- 270 (a) providing an evaluation; and
- 271 (b) developing a reemployment plan.

272 (10) The objective of reemployment is to return an injured worker with a disability to  
273 gainful employment in the following order of employment priority:

- 274 (a) same job, same employer;
- 275 (b) modified job, same employer;
- 276 (c) same job, new employer;
- 277 (d) modified job, new employer;
- 278 (e) new job, new employer; or
- 279 (f) retraining in a new occupation.

280 (11) Nothing in this section or its application is intended to:

- 281 (a) modify or in any way affect an existing employee-employer relationship; or
- 282 (b) provide an employee with a guarantee or right to employment or continued
- 283 employment with an employer.

284 (12) A rehabilitation counselor to whom a referral is made under Subsection (8) shall

285 have the same or comparable qualifications as those established by the Utah State Office of

286 Rehabilitation for personnel assigned to rehabilitation and evaluation duties.

287 Section 3. Section **35A-1-202** is amended to read:

288 **35A-1-202. Divisions -- Creation -- Duties -- Workforce Appeals Board, councils,**

289 **Child Care Advisory Committee, and economic service areas.**

290 (1) There is created within the department the following divisions:

291 (a) the Employment Development Division to administer the development and

292 implementation of employment assistance programs that are:

293 (i) related to the operations of the department; and

294 (ii) consistent with federal and state law;

295 (b) to administer those services that are not delivered through the economic service

296 areas:

297 (i) the Workforce Development and Information Division; and

298 (ii) the Unemployment Insurance Division;

299 (c) the Division of Adjudication to adjudicate claims or actions in accordance with this

300 title; [~~and~~]

301 (d) the Housing and Community Development Division, which is described in Sections

302 [35A-8-201](#) and [35A-8-202](#)[~~;~~]; and

303 (e) the Utah State Office of Rehabilitation, which is described in Section [35A-13-103](#).

304 (2) In addition to the divisions created under Subsection (1), within the department are

305 the following:

306 (a) the Workforce Appeals Board created in Section [35A-1-205](#);

307 (b) the State Council on Workforce Services created in Section [35A-1-206](#);

308 (c) the Employment Advisory Council created in Section [35A-4-502](#);

309 (d) the Child Care Advisory Committee created in Section 35A-3-205; and  
310 (e) the economic service areas created in accordance with Chapter 2, Economic Service  
311 Areas.

312 Section 4. Section 35A-1-206 is amended to read:

313 **35A-1-206. State Council on Workforce Services -- Appointment -- Membership**  
314 **-- Terms of members -- Compensation.**

315 (1) There is created a State Council on Workforce Services that shall:

- 316 (a) perform the activities described in Subsection (8);
- 317 (b) advise on issues requested by the department and the Legislature; and
- 318 (c) make recommendations to the department regarding:
  - 319 (i) the implementation of Chapter 2, Economic Service Areas, Chapter 3, Employment  
320 Support Act, and Chapter 5, Training and Workforce Improvement Act; and
  - 321 (ii) the coordination of apprenticeship training.

322 (2) (a) The council shall consist of the following voting members:

- 323 (i) a private sector representative from each economic service area as designated by the  
324 economic service area director;
- 325 (ii) the superintendent of public instruction or the superintendent's designee;
- 326 (iii) the commissioner of higher education or the commissioner's designee; and
- 327 (iv) the following members appointed by the governor in consultation with the  
328 executive director:

- 329 (A) four representatives of small employers as defined by rule by the department;
- 330 (B) four representatives of large employers as defined by rule by the department;
- 331 (C) four representatives of employees or employee organizations, including at least one  
332 representative from nominees suggested by public employees organizations;
- 333 (D) two representatives of the clients served under this title including  
334 community-based organizations;
- 335 (E) a representative of veterans in the state;
- 336 (F) the [executive] director of the Utah State Office of Rehabilitation; and

- 337 (G) the Applied Technology College president.
- 338 (b) The following shall serve as nonvoting ex officio members of the council:
- 339 (i) the executive director or the executive director's designee;
- 340 (ii) a legislator appointed by the governor from nominations of the speaker of the
- 341 House of Representatives and president of the Senate;
- 342 (iii) the executive director of the Department of Human Services;
- 343 (iv) the director of the Governor's Office of Economic Development or the director's
- 344 designee; and
- 345 (v) the executive director of the Department of Health.
- 346 (3) (a) The governor shall appoint one nongovernmental member from the council as
- 347 the chair of the council.
- 348 (b) The chair shall serve at the pleasure of the governor.
- 349 (4) (a) A member appointed by the governor shall serve a term of four years and may
- 350 be reappointed to one additional term.
- 351 (b) A member shall continue to serve until the member's successor has been appointed
- 352 and qualified.
- 353 (c) Except as provided in Subsection (4)(d), as terms of council members expire, the
- 354 governor shall appoint each new member or reappointed member to a four-year term.
- 355 (d) Notwithstanding the requirements of Subsection (4)(c), the governor shall, at the
- 356 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
- 357 council members are staggered so that approximately one-half of the council is appointed every
- 358 two years.
- 359 (e) When a vacancy occurs in the membership for any reason, the replacement shall be
- 360 appointed for the unexpired term.
- 361 (5) A majority of the voting members constitutes a quorum for the transaction of
- 362 business.
- 363 (6) (a) A member who is not a legislator may not receive compensation or benefits for
- 364 the member's service, but may receive per diem and travel expenses as allowed in:

365 (i) Section 63A-3-106;  
366 (ii) Section 63A-3-107; and  
367 (iii) rules made by the Division of Finance according to Sections 63A-3-106 and  
368 63A-3-107.

369 (b) Compensation and expenses of a member who is a legislator are governed by  
370 Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

371 (7) The department shall provide staff and administrative support to the council at the  
372 direction of the executive director.

373 (8) The council shall:

374 (a) develop a state workforce services plan in accordance with Section 35A-1-207;

375 (b) review economic service area plans to certify consistency with state policy  
376 guidelines;

377 (c) improve the understanding and visibility of state workforce services efforts through  
378 external and internal marketing strategies;

379 (d) include in the annual written report described in Section 35A-1-109, information  
380 and accomplishments related to the activities of the department;

381 (e) issue other studies, reports, or documents the council considers advisable that are  
382 not required under Subsection (8)(d);

383 (f) coordinate the planning and delivery of workforce development services with public  
384 education, higher education, vocational rehabilitation, and human services; and

385 (g) perform other responsibilities within the scope of workforce services as requested  
386 by:

387 (i) the Legislature;

388 (ii) the governor; or

389 (iii) the executive director.

390 Section 5. Section 35A-13-101, which is renumbered from Section 53A-24-101 is  
391 renumbered and amended to read:

392 **CHAPTER 13. UTAH STATE OFFICE OF REHABILITATION ACT**

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**Part 1. General Provisions**

~~[53A-24-101].~~ **35A-13-101. Title.**

(1) This chapter is known as the "Utah State Office of Rehabilitation Act."

(2) This part is known as "General Provisions."

Section 6. Section **35A-13-102**, which is renumbered from Section 53A-24-102 is renumbered and amended to read:

~~[53A-24-102].~~ **35A-13-102. Definitions.**

As used in this chapter:

~~[(1) "Board" means the State Board of Education. (2) "DDDS" means the Division of Disability Determination Services. (3)]~~

(1) "Blind" means an individual:

(a) whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses; or

(b) whose visual acuity is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends to an angle of no greater than 20 degrees.

(2) "Deaf" means an individual with a diagnosed auditory deficit that renders the individual unable to comprehend spoken language through audition only, even with medical intervention or amplification, and that results in functional limitations in one or more areas of daily living.

(3) "Director" means the director of the Utah State Office of Rehabilitation.

(4) "Disability" means a physical or mental condition which materially limits, contributes to limiting, or, if not corrected, will probably result in materially limiting an individual's activities or functioning.

~~[(4) "DRS" means the Division of Rehabilitation Services. (5) "DSBVI" means the Division of Services for the Blind and Visually Impaired. (6) "DSDHH" means the Division of Services to the Deaf and Hard of Hearing. (7)]~~

(5) "Eligible individual" means an individual determined to be eligible to receive services under laws or rules governing eligibility for the program in question.

421 ~~[(8) "Executive director" means the executive director of the Utah State Office of~~  
 422 ~~Rehabilitation.]~~

423 (6) "Hard of hearing" means an individual with a diagnosed auditory deficit ranging  
 424 from mild to profound that results in functional limitations in one or more areas of daily living.

425 ~~[(9)]~~ (7) "Independent living rehabilitation services" means goods and services  
 426 reasonably necessary to enable an individual with a severe disability to maintain or increase  
 427 functional independence.

428 (8) "Office" means the Utah State Office of Rehabilitation created in Section  
 429 [35A-1-202](#).

430 (9) "Visually impaired" means an individual with a diagnosed impairment of visual  
 431 function that if not corrected constitutes a material limitation to normal activities or  
 432 functioning.

433 ~~[(10) "Office" means the Utah State Office of Rehabilitation.]~~

434 ~~[(11)]~~ (10) "Vocational rehabilitation services" means goods and services reasonably  
 435 necessary to enable an individual with a disability to obtain and retain employment.

436 Section 7. Section **35A-13-103**, which is renumbered from Section 53A-24-103 is  
 437 renumbered and amended to read:

438 ~~[53A-24-103].~~ **35A-13-103. Office authority.**

439 (1) ~~[There is created the Utah State Office of Rehabilitation]~~ The Utah State Office of  
 440 Rehabilitation created in Section [35A-1-202](#) is under the [policy] direction of the [State Board  
 441 of Education] department and under the direction and general supervision of the  
 442 [superintendent of public instruction] executive director.

443 (2) The ~~[board]~~ department is the sole state agency designated to administer the state  
 444 plans for vocational rehabilitation and independent living rehabilitation programs.

445 (3) The office is the sole state unit designated to carry out the state plans and other  
 446 duties assigned by law or the ~~[board:]~~ department, including the following:

447 (a) determining eligibility for vocational rehabilitation services;

448 (b) providing vocational rehabilitation services to eligible individuals;

449 (c) determining the types and scope of vocational rehabilitation services provided by  
450 the office;

451 (d) determining employment outcomes related to vocational rehabilitation services if  
452 required; and

453 (e) determining the appropriate uses of federal rehabilitation funding.

454 (4) The office may not delegate the duties described in Subsection (3) to any other state  
455 government entity.

456 Section 8. Section **35A-13-104**, which is renumbered from Section 53A-24-104 is  
457 renumbered and amended to read:

458 ~~[53A-24-104].~~ **35A-13-104. Appointment of director -- Administration of**  
459 **the office.**

460 (1) The executive [~~officer of the board~~] director of the department shall appoint the  
461 [~~executive~~] director of the [~~office with the approval of the board~~] office.

462 (2) The [~~executive~~] director shall administer the office in accordance with the direction  
463 of the executive [~~officer of the board, policies of the board,~~] director and applicable state and  
464 federal laws and regulations.

465 Section 9. Section **35A-13-105**, which is renumbered from Section 53A-24-106 is  
466 renumbered and amended to read:

467 ~~[53A-24-106].~~ **35A-13-105. Public funding of vocational rehabilitation and**  
468 **independent living rehabilitation services.**

469 (1) Public funding of vocational rehabilitation and independent living rehabilitation  
470 services provided under this chapter may only be provided to eligible individuals [~~who are~~  
471 ~~found to require financial assistance with respect to those services~~].

472 (2) The [~~executive~~] director [~~may~~] shall establish priorities for use in determining  
473 services to be provided to eligible individuals under this chapter if the demand for services  
474 exceeds available funds.

475 (3) Rights established under this chapter are not transferable or assignable.

476 Section 10. Section **35A-13-106**, which is renumbered from Section 53A-24-107 is

477 renumbered and amended to read:

478 ~~[53A-24-107].~~ 35A-13-106. **Personally identifiable information --**  
479 **Nondisclosure -- Penalty.**

480 (1) Personally identifiable information obtained by the office, its employees, or agents  
481 concerning individuals applying for or receiving services under this chapter may not be  
482 disclosed without the prior written consent of the individual or the individual's legal  
483 representative, except as required for administration of programs or services under this chapter,  
484 or as otherwise authorized by law.

485 (2) Unauthorized disclosure of personally identifiable information obtained under this  
486 chapter, or use of such information for unauthorized purposes, is a class B misdemeanor.

487 Section 11. Section 35A-13-107, which is renumbered from Section 53A-24-108 is  
488 renumbered and amended to read:

489 ~~[53A-24-108].~~ 35A-13-107. **Acceptance and use of gifts -- Not subject to**  
490 **appropriation.**

491 (1) The ~~[executive]~~ director may, with the approval of the ~~[board]~~ executive director,  
492 accept and use ~~[gifts]~~ a gift to the office made unconditionally by will or otherwise for carrying  
493 out the purposes of this chapter.

494 (2) ~~[Gifts]~~ A gift to the office made under conditions that the ~~[board]~~ executive director  
495 finds to be consistent with this chapter may be accepted and used in accordance with the  
496 conditions of the gift.

497 (3) ~~[Gifts are]~~ A gift to the office as described in this section is not subject to  
498 appropriation by the Legislature.

499 Section 12. Section 35A-13-108, which is renumbered from Section 53A-24-109 is  
500 renumbered and amended to read:

501 ~~[53A-24-109].~~ 35A-13-108. **Delegation of duties and responsibilities of the**  
502 **office.**

503 The ~~[executive]~~ director may, in accordance with applicable law and regulations and  
504 with the consent of the executive ~~[officer of the board,]~~ director, organize the office and

505 ~~[delegate]~~ assign duties and responsibilities ~~[of the office to one or more of its divisions]~~ to the  
506 office's employees to enable the office to better serve ~~[individuals']~~ individuals with disabilities  
507 and to increase the efficiency and effectiveness of operations.

508 Section 13. Section **35A-13-109**, which is renumbered from Section 53A-24-110 is  
509 renumbered and amended to read:

510 ~~[53A-24-110].~~ **35A-13-109. Office duties to individuals with disabilities.**

511 In administering this chapter, the office:

512 (1) ~~[It is the intent of the Legislature that all activities of the office and its subordinate~~  
513 ~~components be conducted in such a manner]~~ shall ensure that ~~[persons]~~ individuals with  
514 disabilities ~~[will be]~~ are assisted, so far as reasonably possible, to take their rightful place in  
515 open society as independent and self-supporting individuals~~[-]; and~~

516 (2) ~~[Neither the office nor any of its parts may]~~ may not assist or support any activity  
517 that ~~[will result]~~ results in unnecessary continuation of a dependent or isolated state or  
518 unnecessarily ~~[separate persons]~~ separates individuals with disabilities from open society.

519 Section 14. Section **35A-13-201** is enacted to read:

520 **Part 2. Office Responsibilities**

521 **35A-13-201. Title.**

522 This part is known as "Office Responsibilities."

523 Section 15. Section **35A-13-202**, which is renumbered from Section 53A-24-105 is  
524 renumbered and amended to read:

525 ~~[53A-24-105].~~ **35A-13-202. Functions of the office.**

526 The office may:

527 (1) apply for, receive, administer, and distribute funds made available through  
528 programs of federal ~~[or]~~, state, or local governments;

529 (2) cooperate with federal ~~[or]~~, state, or local governmental entities to administer  
530 programs and program funds;

531 (3) contract or cooperate with public or private entities or individuals;

532 (4) ~~[if]~~ as designated by the responsible authority, and with the approval of the ~~[board]~~

533 department, perform any functions or services for the federal or state government that relate to  
534 individuals with disabilities;

535 (5) establish subordinate administrative units necessary to increase efficiency and  
536 improve the delivery of services to individuals with disabilities;

537 (6) establish and operate community service centers, rehabilitation facilities, and  
538 workshops, and make grants to public and nonprofit organizations for those purposes;

539 (7) determine eligibility for, and the nature and scope of, services to be provided under  
540 the state plan for vocational rehabilitation or other programs administered by the office;

541 (8) assist individuals with severe disabilities to establish and operate vending machine  
542 services and other small businesses, and perform services authorized under Title 55, Chapter 5,  
543 Blind Persons Operating Vending Stands - Food Services, and Title 55, Chapter 5a, Blind  
544 Products Sales;

545 (9) furnish materials, tools, equipment, initial stocks and supplies, and occupational  
546 licenses needed by rehabilitation facilities, workshops, and small businesses established under  
547 this chapter, and develop and execute marketing plans for materials produced by those  
548 operations;

549 (10) place money received by the office [~~or a subordinate unit~~] through sale of products  
550 or services as authorized under this chapter into a fund managed by the office and used to  
551 support additional training, production, and sales activities;

552 (11) conduct studies and investigations, give demonstrations and make reports, and  
553 provide training and instruction related to the work of the office;

554 (12) establish and maintain research fellowships and traineeships, including necessary  
555 stipends and allowances for those receiving training and instruction;

556 (13) institute and supervise programs to encourage the conservation of sight and  
557 hearing and assist in overcoming and preventing disabling conditions;

558 (14) provide diagnostic, placement, vocational rehabilitation, training, adjustment, and  
559 independent living services; and

560 (15) do all other things necessary to carry out assignments made by law or the [board]

561 department in assisting and rehabilitating [~~persons~~] individuals with disabilities.

562 Section 16. Section **35A-13-203**, which is renumbered from Section 53A-24-106.5 is  
563 renumbered and amended to read:

564 [~~53A-24-106.5~~]. **35A-13-203. Employment first emphasis on the provision of**  
565 **services.**

566 (1) When providing services to [~~a person~~] an individual with a disability under this  
567 chapter, the office shall, within funds appropriated by the Legislature and in accordance with  
568 the requirements of federal and state law, give priority to providing services that assist the  
569 [~~person~~] individual in obtaining and retaining meaningful and gainful employment that enables  
570 the [~~person~~] individual to:

- 571 (a) purchase goods and services;
- 572 (b) establish self-sufficiency; and
- 573 (c) exercise economic control of the [~~person's~~] individual's life.

574 (2) The office shall develop a written plan to implement the policy described in  
575 Subsection (1) that includes:

- 576 (a) assessing the strengths and needs of [~~a person~~] an individual with a disability;
- 577 (b) customizing strength-based approaches to obtaining employment;
- 578 (c) setting expectations, providing appropriate services toward, and recognizing  
579 success in:
  - 580 (i) integrated employment in the workplace at competitive wages and benefits; and
  - 581 (ii) self-employment;
  - 582 (d) developing partnerships with potential employers;
  - 583 (e) providing appropriate employment training opportunities;
  - 584 (f) coordinating services with other government agencies and community resources  
585 [~~included in the Workforce Investment System~~];
  - 586 (g) to the extent possible, eliminating practices and policies that interfere with the  
587 policy described in Subsection (1); and
  - 588 (h) arranging for alternative work experience leading to competitive, integrated

589 employment, including work-based training, volunteer work, and internships.

590 (3) The office shall, on an annual basis:

591 (a) set goals to implement the policy described in Subsection (1) and the plan described  
592 in Subsection (2);

593 (b) determine whether the goals for the previous year have been met; and

594 (c) modify the plan described in Subsection (2) as needed.

595 Section 17. Section 35A-13-301 is enacted to read:

596 **Part 3. Governor's Committee on Employment of People with Disabilities**

597 **35A-13-301. Title.**

598 This part is known as the "Governor's Committee on Employment of People with  
599 Disabilities."

600 Section 18. Section 35A-13-302, which is renumbered from Section 53A-24-114 is  
601 renumbered and amended to read:

602 ~~[53A-24-114].~~ **35A-13-302. Governor's Committee on Employment of**  
603 **People with Disabilities.**

604 ~~[(1) There is created the Governor's Committee on Employment of People with~~  
605 ~~Disabilities.]~~

606 ~~[(2)(a) The State Board of Education shall appoint at least 12 members to the~~  
607 ~~committee.]~~

608 ~~[(b) The State Board of Education shall ensure that the committee includes members~~  
609 ~~from the public and private sectors who represent:]~~

610 ~~[(i) business and industry;]~~

611 ~~[(ii) individuals with disabilities and their advocates;]~~

612 ~~[(iii) job training and placement;]~~

613 ~~[(iv) administrative subunits of the state, such as the Department of Human Resource~~  
614 ~~Management, the Department of Workforce Services, Public Education, Higher Education, and~~  
615 ~~the Department of Human Services;]~~

616 ~~[(v) labor;]~~

- 617 ~~[(vi) veterans;]~~
- 618 ~~[(vii) medical;]~~
- 619 ~~[(viii) health;]~~
- 620 ~~[(ix) insurance;]~~
- 621 ~~[(x) media; and]~~
- 622 ~~[(xi) the general public.]~~

623 (1) There is created the Governor's Committee on Employment of People with  
 624 Disabilities, composed of the following 15 members:

- 625 (a) the director of the office;
- 626 (b) the state superintendent of public instruction or the superintendent's designee;
- 627 (c) the commissioner of higher education or the commissioner's designee;
- 628 (d) the executive director of the Department of Human Resource Management or the  
 629 executive director's designee;
- 630 (e) the executive director of the Department of Human Services or the executive  
 631 director's designee;
- 632 (f) the executive director of the Department of Health or the executive director's  
 633 designee; and
- 634 (g) the following nine members appointed by the governor:
  - 635 (i) a representative of individuals who are blind or visually impaired;
  - 636 (ii) a representative of individuals who are deaf or hard of hearing;
  - 637 (iii) a representative of individuals who have disabilities;
  - 638 (iv) three representatives of business or industry;
  - 639 (v) a representative experienced in job training and placement;
  - 640 (vi) a representative of veterans; and
  - 641 (vii) a representative experienced in medical, health, or insurance professions.

642 ~~[(e)]~~ (2) (a) (i) Except as provided in Subsection (2)~~[(e)]~~(a)(ii), the [State Board of  
 643 Education] governor shall appoint the committee members described in Subsection (1)(g) to  
 644 serve four-year terms.

645 (ii) In making the initial appointments to the committee, the [~~State Board of Education~~]  
646 governor shall appoint approximately [~~1/2~~] one-half of the members to two-year terms and  
647 [~~1/2~~] one-half of the members to four-year terms.

648 [~~(d)~~] (b) Committee members shall serve until their successors are appointed and  
649 qualified.

650 [~~(e)~~] (c) The [~~State Board of Education~~] governor shall fill any vacancy that occurs on  
651 the committee for any reason by appointing a person according to the procedures of this section  
652 for the unexpired term of the vacated member.

653 [~~The State Board of Education shall select a chair from the membership.~~]

654 (d) The director of the office shall select a chair of the committee from the  
655 membership.

656 [~~(g) Seven~~] (e) Eight members of the committee are a quorum for the transaction of  
657 business.

658 (3) (a) The committee shall:

659 (i) promote employment opportunities for individuals with disabilities;

660 (ii) serve as the designated state liaison to the President's Committee on Employment  
661 of People with Disabilities;

662 (iii) provide training and technical assistance to employers in implementing the  
663 Americans with Disabilities Act;

664 (iv) develop and disseminate appropriate information through workshops, meetings,  
665 and other requests in response to needs to employers and others regarding employment of  
666 individuals with disabilities;

667 (v) establish contacts with various community representatives to identify and resolve  
668 barriers to full participation in employment and community life;

669 (vi) formally recognize exemplary contributions in the areas of employment, job  
670 placement, training, rehabilitation, support services, medicine, media or public relations, and  
671 personal achievements made by individuals with disabilities;

672 (vii) advise, encourage, and motivate individuals with disabilities who are preparing

673 for or seeking employment to reach their full potential as qualified employees;

674 (viii) advocate for policies and practices that promote full and equal rights for  
675 individuals with disabilities;

676 (ix) advise the ~~[State Board of Education]~~ office, the department, and the governor on  
677 issues that affect employment and other requests for information on disability issues; and

678 (x) prepare an annual report on the progress, accomplishments, and future goals of the  
679 committee and present the report to the ~~[State Board of Education and the governor, and]~~  
680 department for inclusion in the department's annual report described in Section 35A-1-109.

681 ~~[(xi) establish and maintain a cooperative liaison between the governor's office, the  
682 executive director of the committee, and the executive director of the Utah State Office of  
683 Rehabilitation to fulfill the committee's purpose.]~~

684 (b) The committee may, by following the procedures and requirements of Title 63J,  
685 Chapter 5, Federal Funds Procedures Act, receive and accept federal funds, and may receive  
686 and accept state funds, private gifts, donations, and funds from any source to carry out its  
687 purposes.

688 (4) The ~~[director of the State Office of Rehabilitation shall appoint a person to]~~ office  
689 shall staff the committee.

690 Section 19. Section **35A-13-303**, which is renumbered from Section 53A-24-205 is  
691 renumbered and amended to read:

692 ~~[53A-24-205].~~ **35A-13-303. State rehabilitation council.**

693 (1) The ~~[board]~~ executive director shall appoint ~~[an advisory council]~~ a state  
694 rehabilitation advisory council to advise the ~~[office, DRS, and, as appropriate, the board]~~ office  
695 and the department concerning the ~~[need]~~ needs of individuals with disabilities and the  
696 ~~[activities of DRS regarding]~~ provision of vocational rehabilitation services.

697 (2) A majority of the membership of the advisory council shall consist of individuals  
698 with disabilities.

699 ~~[(3) Members may be reimbursed for authorized actual and necessary expenses  
700 incurred by them in the performance of their official duties.]~~

701 (3) A member of the council may not receive compensation or benefits for the  
702 member's service, but may receive per diem and travel expenses in accordance with:  
703 (a) Section [63A-3-106](#);  
704 (b) Section [63A-3-107](#); and  
705 (c) rules made by the Division of Finance in accordance with Sections [63A-3-106](#) and  
706 [63A-3-107](#).

707 Section 20. Section **35A-13-401** is enacted to read:

708 **Part 4. Services for the Blind and Visually Impaired**

709 **35A-13-401. General Provisions.**

710 (1) This part is known as "Services for the Blind and Visually Impaired."

711 (2) For the purposes of this part:

712 (a) "Assistant director" means the assistant director of the division.

713 (b) "Division" means the program called the Division of Services for the Blind and  
714 Visually Impaired created in Section [35A-13-402](#).

715 Section 21. Section **35A-13-402** is enacted to read:

716 **35A-13-402. The Division of Services for the Blind and Visually Impaired.**

717 (1) There is created as a program within the office the Division of Services for the  
718 Blind and Visually Impaired.

719 (2) The director, with the approval of the executive director and after consultation with  
720 members of the community to be served by the division, shall appoint an assistant director to  
721 administer the services provided by the division.

722 (3) The assistant director shall administer the division in accordance with:

723 (a) the direction of the director and the executive director; and

724 (b) applicable state and federal laws and regulations.

725 Section 22. Section **35A-13-403**, which is renumbered from Section 53A-24-304 is  
726 renumbered and amended to read:

727 ~~[53A-24-304].~~ **35A-13-403. Services provided by the division.**

728 ~~[DSBVI may:]~~ The division may:

- 729 (1) provide:
- 730 (a) a business enterprise program;
- 731 (b) ~~[sheltered]~~ workshops, employment, and training; and
- 732 (c) vocational rehabilitation, training and adjustment, sight conservation, prevention of
- 733 blindness, low vision ~~[lens]~~ lenses, and recreational services ~~[for individuals who are blind or~~
- 734 ~~have visual impairments]~~;
- 735 (2) assist public education officials in the discharge of their duties towards children
- 736 who are blind or have visual impairments, and perform services related to vision screening
- 737 under Section 53A-11-203;
- 738 (3) maintain a register of individuals who are blind or have visual impairments,
- 739 including such facts as the ~~[board]~~ office considers necessary for proper planning,
- 740 administration, and operations, but protecting against unwarranted invasions of privacy;
- 741 (4) establish and operate community service centers, rehabilitation facilities, and
- 742 workshops; and
- 743 (5) perform other duties assigned by the director or the executive director ~~[or the~~
- 744 ~~board]~~.

745 Section 23. Section ~~35A-13-404~~, which is renumbered from Section 53A-24-305 is

746 renumbered and amended to read:

747 ~~[53A-24-305]~~. 35A-13-404. Appointment of advisory council.

748 (1) The ~~[board]~~ executive director shall appoint an advisory council to advise and assist

749 the ~~[office, DSBVI, and, as appropriate, the board]~~ division, the office, and the department in

750 matters relating to the needs of and provision of services to individuals who are blind or have

751 visual impairments ~~[and the activities of DSBVI]~~.

752 (2) At least ~~[one-third]~~ one-half of the members of the council shall be individuals who

753 are blind or have visual impairments.

754 ~~[(3) Members may be reimbursed for authorized actual and necessary expenses~~

755 ~~incurred by them in the performance of their official duties.]~~

756 (3) A member of the council may not receive compensation or benefits for the

757 member's service, but may receive per diem and travel expenses in accordance with:

758 (a) Section 63A-3-106;

759 (b) Section 63A-3-107; and

760 (c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and

761 63A-3-107.

762 Section 24. Section 35A-13-501 is enacted to read:

763 **Part 5. Services for the Deaf and Hard of Hearing**

764 **35A-13-501. General provisions.**

765 (1) This part is known as "Services for the Deaf and Hard of Hearing."

766 (2) For the purposes of this part:

767 (a) "Assistant director" means the assistant director of the division.

768 (b) "Division" means the program called the Division of Services for the Deaf and

769 Hard of Hearing created in Section 35A-13-502.

770 Section 25. Section 35A-13-502 is enacted to read:

771 **35A-13-502. The Division of Services for the Deaf and Hard of Hearing.**

772 (1) There is created as a program within the office the Division of Services for the Deaf  
773 and Hard of Hearing.

774 (2) The director, with the approval of the executive director and after consultation with  
775 members of the community to be served by the division, shall appoint an assistant director to  
776 administer the services provided by the division.

777 (3) The assistant director shall administer the division in accordance with:

778 (a) the direction of the director and the executive director; and

779 (b) applicable state and federal laws and regulations.

780 Section 26. Section 35A-13-503, which is renumbered from Section 53A-24-404 is  
781 renumbered and amended to read:

782 ~~[53A-24-404].~~ **35A-13-503. Services provided by the division.**

783 ~~[DSDHH]~~ The division may:

784 (1) provide training and adjustment services for adults ~~[with hearing impairments]~~ who

785 are deaf or hard of hearing;

786 (2) assist public education officials in the discharge of their duties towards children

787 [~~with hearing impairments~~] who are deaf or hard of hearing;

788 (3) maintain a register of qualified interpreters;

789 (4) provide training in the use of telecommunication devices for the deaf, and install

790 and maintain those devices;

791 (5) operate community centers for individuals [~~with hearing impairments~~] who are deaf

792 or hard of hearing; and

793 (6) perform other duties assigned by the director or the executive director [~~or the~~

794 board].

795 Section 27. Section **35A-13-504**, which is renumbered from Section 53A-24-405 is

796 renumbered and amended to read:

797 [~~53A-24-405~~]. **35A-13-504. Appointment of advisory council.**

798 (1) The [~~board~~] executive director shall appoint an advisory council to advise and assist

799 the [~~office, DSDHH, and, as appropriate, the board~~] division, the office, and the department in

800 matters relating to the needs of and provision of services to individuals [~~with hearing~~

801 ~~impairments and the activities of DSDHH~~] who are deaf or hard of hearing.

802 (2) At least [~~one-third~~] one-half of the members of the council shall be individuals

803 [~~with hearing impairments~~] who are deaf or hard of hearing.

804 [~~(3) Members may be reimbursed for authorized actual and necessary expenses~~

805 ~~incurred by them in the performance of their official duties.]~~

806 (3) A member of the council may not receive compensation or benefits for the

807 member's service, but may receive per diem and travel expenses in accordance with:

808 (a) Section 63A-3-106;

809 (b) Section 63A-3-107; and

810 (c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and

811 63A-3-107.

812 Section 28. Section **35A-13-601**, which is renumbered from Section 53A-26a-101 is

813 renumbered and amended to read:

814 **Part 6. Interpreter Services for the Deaf and Hard of Hearing Act**

815 ~~[53A-26a-101].~~ 35A-13-601. Title.

816 (1) This ~~[chapter]~~ part is known as the "Interpreter Services for the ~~[Hearing Impaired~~  
817 Act] Deaf and Hard of Hearing Act."

818 (2) All rules made under this part shall be made in accordance with Title 63G, Chapter  
819 3, Utah Administrative Rulemaking Act.

820 Section 29. Section **35A-13-602**, which is renumbered from Section 53A-26a-102 is  
821 renumbered and amended to read:

822 ~~[53A-26a-102].~~ 35A-13-602. Definitions.

823 As used in this ~~[chapter]~~ part:

824 (1) "Advisory board" or "board" means the Interpreters Certification Board created in  
825 Section ~~[53A-26a-201]~~ 35A-13-603.

826 (2) "Assistant director" means the assistant director who administers the program  
827 called the Division of Services for the Deaf and Hard of Hearing created in Section  
828 35A-13-502.

829 ~~[(2)]~~ (3) "Certified interpreter" means ~~[a person]~~ an individual who is certified as  
830 meeting the certification requirements of this ~~[chapter]~~ part.

831 ~~[(3) "Hearing impaired" means a hearing loss which:]~~

832 ~~[(a) necessitates the visual acquisition of language; or]~~

833 ~~[(b) adversely affects the acquisition of language but which does not preclude the~~  
834 auditory acquisition of language.]

835 (4) "Interpreter services" means services that facilitate effective communication  
836 between a hearing ~~[person and a person]~~ individual and an individual who is ~~[hearing impaired~~  
837 as defined by Subsection (3);] deaf or hard of hearing through American Sign Language or a  
838 language system or code that is modeled after American Sign Language, in whole or in part, or  
839 is in any way derived from American Sign Language.

840 Section 30. Section **35A-13-603**, which is renumbered from Section 53A-26a-201 is

841 renumbered and amended to read:

842 ~~[53A-26a-201].~~ 35A-13-603. Board.

843 (1) There is created to assist the ~~[State Board of Education]~~ director of the office the  
844 Interpreters Certification Board consisting of the following 11 members:

845 (a) a designee of the assistant director ~~[of the Division of Services to the Deaf and Hard~~  
846 ~~of Hearing (DSDHH) in the Utah State Office of Rehabilitation];~~

847 (b) a designee of the State Board of Regents;

848 (c) a designee of the State Board of Education;

849 (d) four professional interpreters, recommended by the assistant director ~~[of DSDHH];~~

850 and

851 (e) four ~~[persons who are hearing impaired]~~ individuals who are deaf or hard of  
852 hearing, recommended by the assistant director ~~[of DSDHH].~~

853 (2) (a) The ~~[State Board of Education]~~ director shall make all appointments to the  
854 board.

855 (b) In making ~~[its]~~ appointments under Subsections (1)(d) and (e), the ~~[State Board of~~  
856 ~~Education]~~ director shall give consideration to recommendations by certified interpreters ~~[for~~  
857 ~~the hearing impaired]~~ and members of the ~~[hearing impaired]~~ deaf and hard of hearing  
858 community.

859 (3) (a) Board members shall serve three-year terms, except that for the initial terms of  
860 board members, three shall serve one-year terms, four shall serve two-year terms, and four shall  
861 serve three-year terms.

862 (b) ~~[A person]~~ An individual may not serve more than two three-year consecutive  
863 terms.

864 (c) If a vacancy occurs on the board for ~~[any other]~~ a reason other than the expiration of  
865 a term, the ~~[State Board of Education]~~ director shall appoint a replacement for the remainder of  
866 the term ~~[pursuant to]~~ in accordance with Subsections (1) and (2).

867 (4) The ~~[State Board of Education]~~ director may remove ~~[any]~~ a board member for  
868 cause, which ~~[shall]~~ may include misconduct, incompetence, or neglect of duty.

869 (5) The board shall ~~[elect]~~ annually elect a chair and vice chair from among its  
870 members.

871 (6) The board shall meet as often as necessary to accomplish the purposes of this  
872 ~~[chapter]~~ part, but not less than quarterly.

873 ~~[(7) Board members shall receive compensation for actual and necessary expenses in~~  
874 ~~connection with their service on the board, but shall not receive a per diem.]~~

875 (7) A member of the board may not receive compensation or benefits for the member's  
876 service, but may receive travel expenses in accordance with:

877 (a) Section [63A-3-107](#); and

878 (b) rules made by the Division of Finance in accordance with Section [63A-3-107](#).

879 Section 31. Section **35A-13-604**, which is renumbered from Section 53A-26a-202 is  
880 renumbered and amended to read:

881 ~~[53A-26a-202].~~ **35A-13-604. Powers and duties of the board.**

882 (1) The board shall function as an advisory board to the ~~[State Board of Education]~~  
883 director and under the director's direction ~~[of the State Board of Education]~~ shall perform the  
884 following duties concerning the certification of interpreters:

885 ~~[(a) recommend to the state board]~~

886 (a) make recommendations to the director regarding:

887 (i) appropriate rules;

888 ~~[(b) recommend to the state board]~~

889 (ii) policy and budgetary matters;

890 ~~[(c) recommend to the state board a]~~

891 (iii) the appropriate passing score for applicant examinations; and

892 (iv) standards of supervision for individuals in training to become certified interpreters;

893 ~~[(d)]~~ (b) screen applicants for certification and ~~[recommend]~~ make written

894 recommendations to the director regarding certification, renewal, reinstatement, and

895 recertification actions ~~[to the state board in writing]; and~~

896 ~~[(e) recommend standards of supervision for persons in training to become certified~~

897 interpreters; and]

898 [(f)] (c) act as the presiding officer in conducting hearings associated with adjudicative  
 899 proceedings and in issuing recommended orders [~~when so~~] as designated by the [~~State Board of~~  
 900 Education] director.

901 (2) The [~~State Board of Education~~] director, with the collaboration and assistance of  
 902 the advisory board, shall:

- 903 (a) prescribe certification qualifications;
- 904 (b) prescribe rules governing applications for certification;
- 905 (c) provide for a fair and impartial method [~~of~~] for the examination of applicants;
- 906 (d) define unprofessional conduct, by rule, to supplement the definition under this  
 907 [chapter] part; and
- 908 (e) establish conditions for reinstatement and renewal of certification.

909 (3) (a) The advisory board shall designate one of its members on a permanent or  
 910 rotating basis to:

- 911 (i) assist the [~~state board~~] director in reviewing complaints involving the unlawful or  
 912 unprofessional conduct of a certified interpreter; and
- 913 (ii) advise the [~~state board in its investigation of these~~] director when investigating  
 914 complaints.

915 (b) An advisory board member who has, under Subsection (3)(a), reviewed or  
 916 investigated a complaint [~~or advised in its investigation~~] is disqualified from participating with  
 917 the advisory board [~~when it~~] if the board serves as a presiding officer of an administrative  
 918 proceeding concerning the complaint.

919 Section 32. Section **35A-13-605**, which is renumbered from Section 53A-26a-301 is  
 920 renumbered and amended to read:

921 ~~[53A-26a-301].~~ **35A-13-605. Certification required -- Classes of certification.**

922 (1) Except as specifically provided in Section [~~53A-26a-305~~] 35A-13-609, an  
 923 individual is required to be certified as a certified interpreter if that individual provides  
 924 interpreter services and a state or federal law requires the interpreter to be certified or qualified.

925 (2) The ~~[State Board of Education]~~ director shall issue a certification to ~~[any person]~~ an  
926 individual who qualifies under this chapter in classifications determined by the ~~[board]~~ director  
927 based upon recommendations from the advisory board.

928 Section 33. Section **35A-13-606**, which is renumbered from Section 53A-26a-302 is  
929 renumbered and amended to read:

930 ~~[53A-26a-302]~~. **35A-13-606. Qualifications for certification.**

931 Each applicant for certification under this ~~[chapter]~~ part shall:

932 (1) submit an application in a form prescribed by the ~~[State Board of Education]~~  
933 director;

934 (2) pay a fee determined by the ~~[State Board of Education]~~ director under Section  
935 **63J-1-504** to help offset the costs of implementing this ~~[chapter]~~ part for the administration of  
936 examinations for certification and for the issuance of certificates;

937 (3) be of good moral character; and

938 (4) comply with any other qualifications for certification established by the ~~[State~~  
939 ~~Board of Education pursuant to Subsection 53A-26a-202(2)]~~ director in accordance with  
940 Subsection 35A-13-604(2).

941 Section 34. Section **35A-13-607**, which is renumbered from Section 53A-26a-303 is  
942 renumbered and amended to read:

943 ~~[53A-26a-303]~~. **35A-13-607. Certification term -- Expiration -- Renewal.**

944 (1) (a) The ~~[State Board of Education]~~ director shall issue each certificate under this  
945 ~~[chapter]~~ part in accordance with a three-year renewal cycle established by rule.

946 (b) The ~~[State Board of Education]~~ director may by rule extend or shorten a renewal  
947 cycle by as much as one year to stagger the renewal cycles it administers.

948 (2) At the time of renewal, the certified interpreter must show satisfactory evidence of  
949 compliance with renewal conditions established by the ~~[State Board of Education pursuant to~~  
950 ~~Subsection 53A-26a-202(2)]~~ director in accordance with Subsection 35A-13-604(2).

951 (3) Each certificate automatically expires on the expiration date shown on the  
952 certificate unless the certified interpreter renews it in accordance with the conditions prescribed

953 by the [~~State Board of Education for renewal~~] director.

954 Section 35. Section **35A-13-608**, which is renumbered from Section 53A-26a-304 is  
955 renumbered and amended to read:

956 ~~[53A-26a-304]~~. **35A-13-608. Continuing education.**

957 (1) (a) As a condition for renewal of certification, each certified interpreter shall,  
958 during each three-year certification cycle or other cycle defined by rule, complete a number of  
959 hours of qualified continuing professional education in accordance with standards defined by  
960 rule.

961 (b) The [~~State Board of Education~~] director shall determine the number of hours based  
962 upon recommendations from the advisory board.

963 (2) If the renewal cycle is extended or shortened under Section [~~53A-26a-303~~]  
964 35A-13-607, the continuing education hours determined for renewal under Subsection (1) shall  
965 be increased or decreased proportionately.

966 Section 36. Section **35A-13-609**, which is renumbered from Section 53A-26a-305 is  
967 renumbered and amended to read:

968 ~~[53A-26a-305]~~. **35A-13-609. Exemptions from certification -- Temporary or**  
969 **restricted certification.**

970 (1) The following individuals may engage in the practice of a certified interpreter,  
971 subject to the stated circumstances and limitations, without being certified under this chapter:

972 (a) an individual serving in or employed by the Armed Forces of the United States, the  
973 United States Public Health Service, the United States Department of Veterans Affairs, or other  
974 federal [~~agencies while~~] agency and who is engaged in activities regulated under this [~~chapter~~]  
975 part as a part of the individual's service or employment with that federal agency, if the [~~person~~]  
976 individual holds a valid certificate or license to provide interpreter services issued by [~~any~~  
977 other] another state or jurisdiction recognized by the [~~State Board of Education~~] director;

978 (b) a student engaged in providing interpreter services while in training in a recognized  
979 school approved by the [~~State Board of Education~~] director to the extent the student's activities  
980 are supervised by qualified faculty, staff, or a designee, and the services are a defined part of

981 the training program;

982 (c) an individual engaged in an internship, residency, apprenticeship, or on-the-job  
983 training program approved by the [~~State Board of Education~~] director while under the  
984 supervision of a qualified [~~persons~~] individual;

985 (d) an individual residing in another state and certified or licensed to provide  
986 interpreter services in that state, who is called in for a consultation by an individual certified to  
987 provide interpreter services in this state, and the services provided are limited to that  
988 consultation;

989 (e) an individual who is invited by a recognized school, association, or other body  
990 approved by the [~~State Board of Education~~] director to conduct a lecture, clinic, or  
991 demonstration on interpreter services, if the individual does not establish a place of business or  
992 regularly engage in the practice of providing interpreter services in this state;

993 (f) an individual licensed in another state or country who is in this state temporarily to  
994 attend to the needs of an athletic team or group, except that the individual may only attend to  
995 the needs of the team or group [~~including all~~] and individuals who travel with the team or  
996 group, [~~except as a spectator~~] not including spectators; or

997 (g) an individual who is providing interpreter services for a religious entity, to the  
998 extent that the religious entity is specifically exempted from liability under federal law.

999 (2) (a) An individual temporarily in this state who is exempted from certification under  
1000 Subsection (1) shall comply with each requirement of the jurisdiction from which the  
1001 individual derives authority to [~~practice~~] provide interpreter services.

1002 (b) Violation of any limitation imposed by this section is grounds for removal of  
1003 exempt status, denial of certification, or another disciplinary proceeding.

1004 (3) (a) Upon the declaration of a national, state, or local emergency, the [~~State Board of~~  
1005 ~~Education~~] director, in collaboration with the advisory board, may suspend the requirements for  
1006 permanent or temporary certification of [~~persons~~] individuals who are certified or licensed in  
1007 another state.

1008 (b) Individuals exempt under Subsection (3)(a) shall be exempt from certification for

1009 the duration of the emergency while engaged in providing interpreter services for which they  
1010 are certified or licensed in the other state.

1011 (4) The [~~State Board of Education~~] director, after consulting with the advisory board,  
1012 may adopt rules for the issuance of temporary or restricted certifications if their issuance is  
1013 necessary to or justified by:

1014 (a) a lack of necessary available interpretive services in any area or community of the  
1015 state, if the lack of services might be reasonably considered to materially jeopardize  
1016 compliance with state or federal law; or

1017 (b) a need to first observe an applicant for certification in a monitored or supervised  
1018 practice of providing interpretive services before a decision is made by the board either to grant  
1019 or deny the applicant a regular certification.

1020 Section 37. Section ~~35A-13-610~~, which is renumbered from Section 53A-26a-401 is  
1021 renumbered and amended to read:

1022 ~~[53A-26a-401].~~ 35A-13-610. Grounds for denial of certification --  
1023 Disciplinary proceedings.

1024 (1) The [~~State Board of Education~~] director shall refuse to issue a certificate to an  
1025 applicant and shall refuse to renew or shall revoke, suspend, restrict, place on probation, or  
1026 otherwise act upon the certificate of a certified interpreter who does not meet the qualifications  
1027 for certification under this [~~chapter~~] part.

1028 (2) The [~~State Board of Education~~] director may refuse to issue a certificate to an  
1029 applicant, refuse to renew a certificate, revoke, suspend, restrict, or place on probation the  
1030 certificate of a certified interpreter, issue a public or private reprimand to a certified interpreter,  
1031 and issue a cease and desist order in any of the following [~~cases~~] circumstances:

1032 (a) the applicant or certified interpreter has engaged in unprofessional conduct as  
1033 defined in this [~~chapter~~] part or by rule under this [~~chapter~~] part;

1034 (b) the applicant or certified interpreter has engaged in unlawful conduct as defined in  
1035 this [~~chapter~~] part;

1036 (c) the applicant or certified interpreter has been determined to be mentally

1037 incompetent for any reason by a court of competent jurisdiction; or

1038 (d) the applicant or certified interpreter is unable to provide interpretive services with  
1039 reasonable skill and safety because of illness, drunkenness, excessive use of drugs, narcotics,  
1040 chemicals, or any other type of material, or as a result of any other mental or physical  
1041 condition, when the individual's condition demonstrates a threat or potential threat to ~~[the]~~  
1042 public health, safety, or welfare.

1043 (3) An individual whose certificate has been suspended, revoked, or restricted under  
1044 Subsection (1) may apply for reinstatement at reasonable intervals and upon compliance with  
1045 conditions imposed by the ~~[State Board of Education]~~ director.

1046 (4) The ~~[State Board of Education]~~ director may issue cease and desist orders:

1047 (a) to a certified interpreter or applicant who ~~[may be disciplined]~~ is subject to  
1048 discipline under Subsection (1);

1049 (b) to ~~[any person]~~ an individual who engages or represents ~~[himself to be]~~ that the  
1050 individual is engaged in the profession of a certified interpreter; and

1051 (c) to ~~[any person]~~ an individual who otherwise violates this ~~[chapter or any rules~~  
1052 ~~adopted under this chapter]~~ part or rules adopted under this part.

1053 Section 38. Section ~~35A-13-611~~, which is renumbered from Section 53A-26a-501 is  
1054 renumbered and amended to read:

1055 ~~[53A-26a-501]~~. **35A-13-611. Unlawful conduct.**

1056 "Unlawful conduct" means conduct by ~~[any person]~~ an individual that is defined as  
1057 unlawful under this part and includes:

1058 (1) practicing or engaging in, representing oneself to be practicing or engaging in, or  
1059 attempting to practice or engage in the profession of a certified interpreter if the ~~[person]~~  
1060 individual is:

1061 (a) not certified to do so ~~[or]~~ and is not exempted from certification under this chapter;

1062 or

1063 (b) restricted from doing so by a restricted, suspended, revoked, temporary,  
1064 probationary, or inactive certification;

1065 (2) impersonating another certified interpreter or practicing as a certified interpreter  
1066 under a false or assumed name, except as permitted by law;

1067 (3) knowingly employing [~~any other person~~] an individual to practice or engage in or  
1068 attempt to practice or engage in the profession of a certified interpreter, if the employee is not  
1069 certified to do so under this chapter;

1070 (4) knowingly permitting the [~~person's~~] individual's authority to engage in the  
1071 profession of a certified interpreter to be used by another individual, except as permitted by  
1072 law; or

1073 (5) applying for [~~or~~] certification under this part, obtaining certification under this part,  
1074 or otherwise dealing with the [~~State Board of Education~~] director through the use of fraud,  
1075 forgery, or intentional deception, misrepresentation, misstatement, or omission.

1076 Section 39. Section **35A-13-612**, which is renumbered from Section 53A-26a-502 is  
1077 renumbered and amended to read:

1078 ~~[53A-26a-502]~~. **35A-13-612. Unprofessional conduct.**

1079 "Unprofessional conduct" means conduct by a certified interpreter that is defined as  
1080 unprofessional conduct under this [~~chapter~~] part or under any rules adopted under this [~~chapter~~]  
1081 part and includes:

1082 (1) violating, or aiding or abetting [~~any other person to violate~~] an individual in  
1083 violating, any provision of this [~~chapter or rule~~] part, rule adopted under this part, or order  
1084 regulating certified interpreters;

1085 (2) violating, or aiding or abetting [~~any other person to violate~~] an individual in  
1086 violating, any generally accepted professional or ethical standard applicable to the profession of  
1087 a certified interpreter; or

1088 (3) physically, mentally, or sexually abusing or exploiting [~~any person~~] an individual  
1089 through conduct connected with a certified interpreter's practice under this [~~chapter~~] part.

1090 Section 40. Section **35A-13-613**, which is renumbered from Section 53A-26a-503 is  
1091 renumbered and amended to read:

1092 ~~[53A-26a-503]~~. **35A-13-613. Penalty for unlawful conduct.**

1093            [~~Any person~~] An individual who violates Section [~~53A-26a-501~~] 35A-13-611 is guilty  
1094 of a class B misdemeanor.

1095            Section 41. Section **53A-1-403.5** is amended to read:

1096            **53A-1-403.5. Education of persons in custody of the Utah Department of**  
1097 **Corrections -- Contracting for services -- Recidivism reduction plan -- Collaboration**  
1098 **among state agencies.**

1099            (1) The State Board of Education and the Utah Department of Corrections, subject to  
1100 legislative appropriation, are responsible for the education of persons in the custody of the Utah  
1101 Department of Corrections.

1102            (2) (a) To fulfill the responsibility under Subsection (1), the State Board of Education  
1103 and the Utah Department of Corrections shall, where feasible, contract with appropriate private  
1104 or public agencies to provide educational and related administrative services. Contracts for  
1105 postsecondary education and training shall be under Subsection (2)(b).

1106            (b) (i) The contract under Subsection (2)(a) to provide postsecondary education and  
1107 training shall be with a community college if the correctional facility is located within the  
1108 service region of a community college, except under Subsection (2)(b)(ii).

1109            (ii) If the community college under Subsection (2)(b)(i) declines to provide the  
1110 education and training or cannot meet reasonable contractual terms for providing the education  
1111 and training as specified by the Utah Department of Corrections, postsecondary education and  
1112 training under Subsection (2)(a) may be procured through other appropriate private or public  
1113 agencies.

1114            (3) (a) As its corrections education program, the State Board of Education and the Utah  
1115 Department of Corrections shall develop and implement a recidivism reduction plan, including  
1116 the following components:

- 1117            (i) inmate assessment;
- 1118            (ii) cognitive problem-solving skills;
- 1119            (iii) basic literacy skills;
- 1120            (iv) career skills;

- 1121 (v) job placement;
- 1122 (vi) postrelease tracking and support;
- 1123 (vii) research and evaluation;
- 1124 (viii) family involvement and support; and
- 1125 (ix) multiagency collaboration.
- 1126 (b) The plan shall be developed and implemented through the State Office of
- 1127 Education and the Utah Department of Corrections in collaboration with the following entities:
- 1128 (i) the State Board of Regents;
- 1129 (ii) the Utah College of Applied Technology Board of Trustees;
- 1130 (iii) local boards of education;
- 1131 (iv) the Department of Workforce Services;
- 1132 (v) the Department of Human Services;
- 1133 (vi) the Board of Pardons and Parole;
- 1134 (vii) the Utah State Office of Rehabilitation; and
- 1135 (viii) the Governor's Office.
- 1136 (4) By July 1, 2014, and every three years thereafter, the Utah Department of
- 1137 Corrections shall make a report to the Education Interim Committee and the Judiciary, Law
- 1138 Enforcement, and Criminal Justice Interim Committee evaluating the impact of corrections
- 1139 education programs on recidivism.
- 1140 Section 42. Section **53A-1a-501.7** is amended to read:
- 1141 **53A-1a-501.7. State Charter School Board -- Staff director -- Facilities.**
- 1142 (1) (a) The State Charter School Board, with the consent of the superintendent of
- 1143 public instruction, shall appoint a staff director for the State Charter School Board.
- 1144 (b) The State Charter School Board shall have authority to remove the staff director
- 1145 with the consent of the superintendent of public instruction.
- 1146 (c) The position of staff director is exempt from the career service provisions of Title
- 1147 67, Chapter 19, Utah State Personnel Management Act.
- 1148 (2) The superintendent of public instruction shall provide space for staff of the State

1149 Charter School Board in facilities occupied by the Utah State Office of Education, with costs  
1150 charged for the facilities equal to those charged other sections and divisions within the Utah  
1151 State Office of Education [~~and Utah State Office of Rehabilitation~~].

1152 Section 43. Section **53A-11-203** is amended to read:

1153 **53A-11-203. Vision screening.**

1154 (1) As used in this section:

1155 (a) [~~"Division"~~] "Office" means the [~~Division of Services for the Blind and Visually~~  
1156 ~~Impaired created under Section 53A-24-302~~] Utah State Office of Rehabilitation created in  
1157 Section 35A-1-202.

1158 (b) "Qualifying child" means a child who is at least 3-1/2 years old, but is less than  
1159 nine years old.

1160 (2) A child under nine years old entering school for the first time in this state must  
1161 present the following to the school:

1162 (a) a certificate signed by a licensed physician, optometrist, or other licensed health  
1163 professional approved by the [~~division~~] office, stating that the child has received vision  
1164 screening to determine the presence of amblyopia or other visual defects; or

1165 (b) a written statement signed by at least one parent or legal guardian of the child that  
1166 the screening violates the personal beliefs of the parent or legal guardian.

1167 (3) (a) The [~~division~~] office:

1168 (i) shall provide vision screening report forms to a person approved by the [~~division~~]  
1169 office to conduct a free vision screening for a qualifying child;

1170 (ii) may work with health care professionals, teachers, and vision screeners to develop  
1171 protocols that may be used by a parent, teacher, or vision screener to help identify a child who  
1172 may have conditions that are not detected in a vision screening, such as problems with eye  
1173 focusing, eye tracking, visual perceptual skills, visual motor integration, and convergence  
1174 insufficiency; and

1175 (iii) shall, once protocols are established under Subsection (3)(a)(ii), develop language  
1176 regarding the vision problems identified in Subsection (3)(a)(ii) to be included in the notice

1177 required by Subsection (3)(b).

1178 (b) The report forms shall include the following information for a parent or guardian:  
1179 "vision screening is not a substitute for a complete eye exam and vision evaluation by an eye  
1180 doctor."

1181 (4) A school district or charter school may conduct free vision screening clinics for a  
1182 qualifying child.

1183 (5) (a) The [~~division~~] office shall maintain a central register of qualifying children who  
1184 fail vision screening and who are referred for follow-up treatment.

1185 (b) The register described in Subsection (5)(a) shall include the name of the child, age  
1186 or birthdate, address, cause for referral, and follow-up results.

1187 (c) A school district or charter school shall report to the [~~division~~] office referral  
1188 follow-up results for a qualifying child.

1189 (6) (a) A school district or charter school shall ensure that a volunteer who serves as a  
1190 vision screener for a free vision screening clinic for a qualifying child:

1191 (i) is a school nurse;

1192 (ii) holds a certificate issued by the [~~division~~] office under Subsection (6)(b)(ii); or

1193 (iii) is directly supervised by an individual described in Subsection (6)(a)(i) or (ii).

1194 (b) The [~~division~~] office shall:

1195 (i) provide vision screening training to a volunteer seeking a certificate described in  
1196 Subsection (6)(b)(ii), using curriculum established by the [~~division~~] office; and

1197 (ii) issue a certificate to a volunteer who successfully completes the vision screening  
1198 training described in Subsection (6)(b)(i).

1199 (c) An individual described in Subsection (6)(a) is not liable for damages that result  
1200 from acts or omissions related to the vision screening, unless the acts or omissions are willful  
1201 or grossly negligent.

1202 (7) (a) Except as provided in Subsection (7)(b), a licensed health professional  
1203 providing vision care to private patients may not participate as a screener in a free vision  
1204 screening program provided by a school district.

- 1205 (b) A school district or charter school may:
- 1206 (i) allow a licensed health professional who provides vision care to private patients to
- 1207 participate as a screener in a free vision screening program for a child 3-1/2 years old or older;
- 1208 (ii) establish guidelines to administer a free vision screening program described in
- 1209 Subsection (7)(b)(i); and
- 1210 (iii) establish penalties for a violation of the requirements of Subsection (7)(c).
- 1211 (c) A licensed health professional or other person who participates as a screener in a
- 1212 free vision screening program described in Subsection (7)(b):
- 1213 (i) may not market, advertise, or promote the licensed health professional's business in
- 1214 connection with providing the free screening at the school; and
- 1215 (ii) shall provide the child's results of the free vision screening on a form produced by
- 1216 the school or school district, which:
- 1217 (A) may not include contact information other than the name of the licensed health
- 1218 professional; and
- 1219 (B) shall include a statement: "vision screening is not a substitute for a complete eye
- 1220 exam and vision evaluation by an eye doctor."
- 1221 (d) A school district or charter school may provide information to a parent or guardian
- 1222 of the availability of follow up vision services for a student.
- 1223 (8) The Department of Health shall:
- 1224 (a) by rule, set standards and procedures for vision screening required by this chapter,
- 1225 which shall include a process for notifying the parent or guardian of a child who fails a vision
- 1226 screening or is identified as needing follow-up care; and
- 1227 (b) provide the ~~division~~ office with copies of rules, standards, instructions, and test
- 1228 charts necessary for conducting vision screening.
- 1229 (9) The ~~division~~ office shall supervise screening, referral, and follow-up required by
- 1230 this chapter.

1231 Section 44. Section **53A-24-601** is enacted to read:

1232 **Part 6. Transition Plan for the Utah State Office of Rehabilitation**

1233 53A-24-601. Transition plan.

1234 (1) On or before June 1, 2016, the Department of Workforce Services and the Utah  
1235 State Office of Rehabilitation shall develop a written transition plan for moving the Utah State  
1236 Office of Rehabilitation from the State Board of Education to the Department of Workforce  
1237 Services on October 1, 2016, that describes:

1238 (a) the tasks that need to be completed before the move on October 1, 2016, including  
1239 a description of:

1240 (i) which employees, by job title and classification, will transition to the Utah State  
1241 Office of Rehabilitation under the Department of Workforce Services from the State Board of  
1242 Education and the expected transition dates;

1243 (ii) office space and infrastructure requirements related to the transition;

1244 (iii) any work site location changes for transitioning employees;

1245 (iv) the transition of service delivery sites;

1246 (v) amendments needed to existing contracts;

1247 (vi) the provision of directions and information to Utah State Office of Rehabilitation  
1248 clients regarding where services will be provided and the hours services will be provided;

1249 (vii) procedures for the transfer and reconciliation of budgeting and funding of the  
1250 Utah State Office of Rehabilitation as the office transitions from the State Board of Education  
1251 to the Department of Workforce Services; and

1252 (viii) the transition of technology services to the Utah State Office of Rehabilitation;

1253 (b) the tasks that need to be completed during the year after the move on October 1,  
1254 2016; and

1255 (c) how the transition to the Department of Workforce Services will be funded,  
1256 including details of:

1257 (i) how expenses associated with the transition will be managed;

1258 (ii) how funding for services provided by the Utah State Office of Rehabilitation will  
1259 be managed between the State Board of Education and the Department of Workforce Services  
1260 to ensure services will be provided by the Utah State Office of Rehabilitation without

1261 interruption; and  
1262 (iii) how federal funds will be used by or transferred between the State Board of  
1263 Education and the Department of Workforce Services to ensure services will be provided by  
1264 the Utah State Office of Rehabilitation without interruption.  
1265 (2) The written transition plan shall:  
1266 (a) contain a timeline for the completion of the tasks described in Subsection (1)(a);  
1267 (b) be updated at least every two weeks until the transition is complete;  
1268 (c) describe how information will be provided to Utah Office of Rehabilitation clients  
1269 regarding any changes to where services will be provided and the hours services will be  
1270 provided;  
1271 (d) be provided to the:  
1272 (i) State Board of Education and the superintendent of public instruction;  
1273 (ii) Division of Finance;  
1274 (iii) Utah State Office of Rehabilitation; and  
1275 (iv) Department of Technology Services; and  
1276 (e) be made available to transitioning or potentially transitioning employees.  
1277 (3) The Department of Workforce Services and the Utah State Office of Rehabilitation  
1278 shall publish information on their websites for Utah State Office of Rehabilitation clients and  
1279 employees that provides a full overview of the written transition plan and how the move will  
1280 affect client services offered by the Utah State Office of Rehabilitation, including regularly  
1281 updated:  
1282 (a) information regarding the location where services are provided and the hours  
1283 services are provided; and  
1284 (b) contact information so that clients can contact transitioning employees and obtain  
1285 information regarding client services.  
1286 (4) The Department of Workforce Services and the State Board of Education may enter  
1287 into a memorandum of understanding of how costs and responsibilities will be shared to:  
1288 (a) ensure that services provided under agreements with the federal government are

1289 fulfilled;

1290 (b) ensure that commitments made by the State Board of Education with respect to the  
1291 Utah State Office of Rehabilitation are met;

1292 (c) provide ongoing or shared services as needed, including the provision of payments  
1293 to the State Board of Education from the Department of Workforce Services; and

1294 (d) ensure that money from the Office of Rehabilitation Transition Restricted Account,  
1295 created in Section 53A-24-602, is used appropriately by the Department of Workforce Services  
1296 and the State Board of Education.

1297 (5) The Department of Workforce Services may not expend federal funds received  
1298 from the United States Rehabilitation Services Administration before October 1, 2016.

1299 (6) In implementing the written transition plan described in this section, the  
1300 Department of Workforce Services and the Utah State Office of Rehabilitation shall:

1301 (a) protect existing services, programs, and access to services provided by the Utah  
1302 State Office of Rehabilitation; and

1303 (b) preserve the existing organizational structure and personnel assignments within the  
1304 Utah State Office of Rehabilitation.

1305 Section 45. Section 53A-24-602 is enacted to read:

1306 **53A-24-602. Office of Rehabilitation Transition Restricted Account.**

1307 (1) There is created a restricted account within the General Fund known as the "Office  
1308 of Rehabilitation Transition Restricted Account."

1309 (2) The restricted account shall consist of appropriations made by the Legislature.

1310 (3) Subject to appropriation, the Utah State Office of Rehabilitation, the Department of  
1311 Workforce Services, and the State Board of Education may spend money from the restricted  
1312 account to pay for commitments related to and services provided by the Utah State Office of  
1313 Rehabilitation, including expenses related to moving the Utah State Office of Rehabilitation  
1314 from the State Board of Education to the Department of Workforce Services.

1315 Section 46. Section 54-8b-10 is amended to read:

1316 **54-8b-10. Imposing a surcharge to provide hearing and speech impaired persons**

1317 **with telecommunication devices -- Definitions -- Procedures for establishing program --**  
1318 **Surcharge -- Administration and disposition of surcharge money.**

1319 (1) As used in this section:

1320 (a) "Certified deaf or severely hearing or speech impaired person" means any state  
1321 resident who:

1322 (i) is so certified by:

1323 (A) a licensed physician;

1324 (B) an otolaryngologist;

1325 (C) a speech language pathologist;

1326 (D) an audiologist; or

1327 (E) a qualified state agency; and

1328 (ii) qualifies for assistance under any low income public assistance program  
1329 administered by a state agency.

1330 (b) "Certified interpreter" means a person who is a certified interpreter under Title  
1331 ~~[53A, Chapter 26a, Interpreter Services for the Hearing Impaired Act]~~ 35A, Chapter 13, Part 6,  
1332 Interpreter Services for the Deaf and Hard of Hearing Act.

1333 (c) (i) "Telecommunication device" means any mechanical adaptation device that  
1334 enables a deaf or severely hearing or speech impaired person to use the telephone.

1335 (ii) "Telecommunication device" includes:

1336 (A) telecommunication devices for the deaf (TDD);

1337 (B) telephone amplifiers;

1338 (C) telephone signal devices;

1339 (D) artificial larynxes; and

1340 (E) adaptive equipment for TDD keyboard access.

1341 (2) The commission shall hold hearings to establish a program whereby a certified deaf  
1342 or severely hearing or speech impaired customer of a telecommunications corporation that  
1343 provides service through a local exchange or of a wireless telecommunications provider may  
1344 obtain a telecommunication device capable of serving the customer at no charge to the

1345 customer beyond the rate for basic service.

1346 (3) (a) The program described in Subsection (2) shall provide a dual party relay system  
1347 using third party intervention to connect a certified deaf or severely hearing or speech impaired  
1348 person with a normal hearing person by way of telecommunication devices designed for that  
1349 purpose.

1350 (b) The commission may, by rule, establish the type of telecommunications device to  
1351 be provided to ensure functional equivalence.

1352 (4) (a) The commission shall impose a surcharge on each residential and business  
1353 access line of each customer of local-exchange telephone service in this state, and each  
1354 residential and business telephone number of each customer of mobile telephone service in this  
1355 state, not including a telephone number used exclusively to transfer data to and from a mobile  
1356 device, which shall be collected by the telecommunications corporation providing public  
1357 telecommunications service to the customer, to cover the costs of:

1358 (i) the program described in Subsection (2); and

1359 (ii) payments made under Subsection (5).

1360 (b) The commission shall establish by rule the amount to be charged under this section,  
1361 provided that:

1362 (i) the surcharge does not exceed 20 cents per month for each residential and business  
1363 access line for local-exchange telephone service, and for each residential and business  
1364 telephone number for mobile telephone service, not including a telephone number used  
1365 exclusively to transfer data to and from a mobile device; and

1366 (ii) if the surcharge is related to a mobile telecommunications service, the surcharge  
1367 may be imposed, billed, and collected only to the extent permitted by the Mobile  
1368 Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

1369 (c) The telecommunications corporation shall collect the surcharge from its customers  
1370 and transfer the money collected to the commission under rules adopted by the commission.

1371 (d) The surcharge shall be separately identified on each bill to a customer.

1372 (5) (a) Money collected from the surcharge imposed under Subsection (4) shall be

1373 deposited in the state treasury as dedicated credits to be administered as determined by the  
1374 commission.

1375 (b) These dedicated credits may be used only:

1376 (i) for the purchase, maintenance, repair, and distribution of telecommunication  
1377 devices;

1378 (ii) for the acquisition, operation, maintenance, and repair of a dual party relay system;

1379 (iii) to reimburse telephone corporations for the expenses incurred in collecting and  
1380 transferring to the commission the surcharge imposed by the commission;

1381 (iv) for the general administration of the program;

1382 (v) to train persons in the use of telecommunications devices; and

1383 (vi) by the commission to contract, in compliance with Title 63G, Chapter 6a, Utah  
1384 Procurement Code, with:

1385 (A) an institution within the state system of higher education listed in Section  
1386 [53B-1-102](#) for a program approved by the Board of Regents that trains persons to qualify as  
1387 certified interpreters; or

1388 (B) the [~~Division of Services to the Deaf and Hard of Hearing~~] Utah State Office of  
1389 Rehabilitation created in Section [35A-1-202](#) for a program that trains persons to qualify as  
1390 certified interpreters.

1391 (c) (i) The commission shall make rules under Title 63G, Chapter 3, Utah  
1392 Administrative Rulemaking Act, for the administration of money under Subsection (5)(b)(vi).

1393 (ii) In the initial rulemaking to determine the administration of money under  
1394 Subsection (5)(b)(vi), the commission shall give notice and hold a public hearing.

1395 (d) Money received by the commission under Subsection (4) is nonlapsing.

1396 (6) (a) The telephone surcharge need not be collected by a telecommunications  
1397 corporation if the amount collected would be less than the actual administrative costs of the  
1398 collection.

1399 (b) If Subsection (6)(a) applies, the telecommunications corporation shall submit to the  
1400 commission, in lieu of the revenue from the surcharge collection, a breakdown of the

1401 anticipated costs and the expected revenue from the collection, showing that the costs exceed  
1402 the revenue.

1403 (7) The commission shall solicit the advice, counsel, and physical assistance of  
1404 severely hearing or speech impaired persons and the organizations serving them in the design  
1405 and implementation of the program.

1406 Section 47. Section **55-5-2** is amended to read:

1407 **55-5-2. Licensing agency -- Duties of the Utah State Office of Rehabilitation.**

1408 (1) The [~~Division of Services for the Blind and Visually Impaired;~~] Utah State Office  
1409 of Rehabilitation created in Section 35A-1-202 is designated as the licensing agency for the  
1410 purpose of carrying out this chapter.

1411 (2) The [~~Division of Services for the Blind and Visually Impaired;~~] Utah State Office  
1412 of Rehabilitation shall:

- 1413 (a) take necessary steps to carry out the provisions of this chapter;
- 1414 (b) with the approval of the custodian having charge of the building, park or other  
1415 property in which the vending stand or other enterprise is to be located, select a location for  
1416 such stand or enterprise and the type of equipment to be provided;
- 1417 (c) construct and equip stands where blind persons may be trained under the  
1418 supervision of the [~~Division of Services for the Blind and Visually Impaired]~~ Utah State Office  
1419 of Rehabilitation to carry on a business as a vending stand operator;
- 1420 (d) provide adequate supervision of each person licensed to operate vending stands or  
1421 other enterprises to ensure efficient and orderly management; and
- 1422 (e) make rules necessary for the proper operation of vending stands or other  
1423 enterprises.

1424 Section 48. Section **55-5-7** is amended to read:

1425 **55-5-7. Agencies to negotiate for food service with the Utah State Office of**  
1426 **Rehabilitation -- Existing contracts.**

1427 (1) A governmental agency [~~which~~] that proposes to operate or continue a food service  
1428 in a public office building shall first attempt in good faith to make an agreement with the

1429 ~~[Division of Services for the Blind and Visually Impaired]~~ Utah State Office of Rehabilitation  
 1430 created in Section 35A-1-202 to operate the food service without payment of rent.

1431 (2) The governmental agency may not offer or grant to any other party a contract or  
 1432 concession to operate the food service unless the governmental agency determines in good faith  
 1433 that the ~~[Division of Services for the Blind and Visually Impaired]~~ Utah State Office of  
 1434 Rehabilitation is not willing to or cannot satisfactorily provide the food service.

1435 (3) This act may not impair any valid contract existing on the effective date of this act,  
 1436 and does not preclude renegotiation of a valid contract on the same terms and with the same  
 1437 parties.

1438 Section 49. Section **55-5-8** is amended to read:

1439 **55-5-8. Food service in exempt buildings.**

1440 With respect to all state, county, and municipal buildings ~~[which]~~ that are not subject to  
 1441 Section **55-5-7**, the governmental agency in charge of the building shall consider allowing the  
 1442 ~~[Division of Services for the Blind and Visually Impaired]~~ Utah State Office of Rehabilitation  
 1443 created in Section 35A-1-202 to operate any existing or proposed food service in the building,  
 1444 and shall discuss the operation with the division under Section ~~[53A-24-304]~~ 35A-13-402 upon  
 1445 its request.

1446 Section 50. Section **55-5a-2** is amended to read:

1447 **55-5a-2. Definitions.**

1448 As used in this ~~[act]~~ chapter:

1449 (1) "Blind" means an individual, or class of individuals, whose central acuity does not  
 1450 exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than  
 1451 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its  
 1452 widest diameter subtends an angle of no greater than 20 degrees.

1453 ~~[(2) "Division" means the Division of Services for the Blind and Visually Impaired.]~~

1454 ~~[(3)]~~ (2) "Direct labor" means work required for preparation, processing~~;~~ and  
 1455 packing, other than supervision, administration, inspection ~~[and]~~, or shipping.

1456 (3) "Office" means the Utah State Office of Rehabilitation created in Section

1457 [35A-1-202.](#)

1458 Section 51. Section **55-5a-3** is amended to read:

1459 **55-5a-3. Permit required to sell blind-made products or services or to make sales**  
1460 **to help the blind and visually impaired.**

1461 (1) A person, group of persons, or organization may not~~[;]~~ by any means, sell, transfer,  
1462 or otherwise dispose of goods, articles, or products to the public in this state [~~which~~] that are  
1463 labeled as made by the blind or sold as products of the blind without first securing a permit in  
1464 writing from the office for each person selling or soliciting the sale of those goods, articles, or  
1465 products [~~from the Division of Services for the Blind and Visually Impaired~~].

1466 (2) A person, group of persons, or organization may not conduct or engage in any  
1467 business [~~whatsoever~~] in this state, if the word "blind" is used to designate its product's origin  
1468 or manufacture or if it is used in such a manner as to indicate the services, goods, articles, or  
1469 products that it provides are blind-made or provide help for the blind or visually impaired,  
1470 unless a written permit is obtained from the [~~division~~] office to do so.

1471 (3) A person, group of persons, or organization may not conduct any of the activities  
1472 designated in this section using a name, trade name, logo, or other identifying mark or name  
1473 [~~which~~] that implies that the person, group of persons, or organization using the name is  
1474 affiliated with or sponsored by the state or any of its agencies or subdivisions, when the person,  
1475 group of persons, or organization is not sponsored or supported by the state or one of its  
1476 agencies or subdivisions.

1477 Section 52. Section **55-5a-4** is amended to read:

1478 **55-5a-4. Issuance of permits -- Eligibility -- Fee -- Local license or permit.**

1479 (1) The [~~division~~] office may adopt rules and regulations, prescribe procedures, adopt  
1480 forms and applications, review applications for permits, and issue permits as required by  
1481 Section [55-5a-3](#) subject to the following:

1482 (a) A product shall be considered "blind-made" if 75% or more of the direct labor  
1483 hours required for its manufacture are provided by the blind.

1484 (b) A person or organization shall be considered to be selling blind-made products if

1485 60% or more of the wholesale cost of the seller's average inventory of products is blind-made  
1486 and the seller clearly differentiates by the use of labels or other markings between blind-made  
1487 products and other products.

1488 (c) Individuals or businesses are conducting sales by the blind if 75% or more of the  
1489 direct labor hours in packaging, marketing, soliciting and making sales are provided by the  
1490 blind.

1491 (d) Upon receipt of appropriate documentation indicating qualification of a person or  
1492 organization seeking a license under this act, the ~~[division]~~ office shall issue permits for any  
1493 one~~;~~ or ~~[a]~~ combination of the following:

1494 (i) sale of products manufactured by the blind~~;~~;

1495 (ii) sale of blind-made products by the blind~~;~~ ~~and~~; or

1496 (iii) sale by the blind of products not made by the blind.

1497 (e) No permit shall be issued by the ~~[division]~~ office if the business name, trade name,  
1498 or logo of the organization seeking the permit is similar to the name of or in any way implies  
1499 an affiliation with or support of the state or one of its agencies or subdivisions if the  
1500 organization is not so affiliated.

1501 (2) A fee of not more than \$5 shall be charged for the issuance and renewal of each  
1502 permit ~~[which]~~ that shall be valid for a period of one year unless earlier revoked for good cause  
1503 shown.

1504 (3) No political subdivision of this state shall issue ~~[any]~~ a license or permit  
1505 ~~[whatsoever]~~ to sell blind-made goods, articles, or products unless the person applying for that  
1506 license or permit has first obtained a valid permit issued by the ~~[division]~~ office.

1507 Section 53. Section **55-5a-5** is amended to read:

1508 **55-5a-5. Application for permit -- Investigation -- Exception -- Appeal of denial.**

1509 (1) The ~~[division]~~ office shall investigate each application for a permit to ~~[assure]~~  
1510 ensure that the person, group of persons, or organization is actually engaged in the manufacture  
1511 or distribution of goods, articles, or products made by blind persons within the meaning of this  
1512 act. ~~[The division]~~

1513           (2) Notwithstanding Subsection (1), the office may issue permits without  
1514 investigation~~[, however,]~~ to nonresident persons, groups of persons, or organizations upon  
1515 proof that they are recognized and approved by the state in which they reside as authorized to  
1516 sell such goods, articles, or products pursuant to a law of that state imposing requirements  
1517 substantially similar to those prescribed ~~[pursuant to]~~ by this act.

1518           (3) Anyone denied a permit may appeal the decision of the [division to the state  
1519 ~~superintendent of public instruction or his]~~ office to the executive director of the Department of  
1520 Workforce Services or the executive director's designated agent.

1521           Section 54. Section **62A-5a-102** is amended to read:

1522           **62A-5a-102. Definitions.**

1523           As used in this chapter:

1524           (1) "Council" means the Coordinating Council for Persons with Disabilities.

1525           (2) "State agencies" means:

1526           (a) the Division of Services for People with Disabilities and the Division of Substance  
1527 Abuse and Mental Health, within the Department of Human Services;

1528           (b) the Division of Health Care Financing within the Department of Health;

1529           (c) family health services programs established under Title 26, Chapter 10, Family  
1530 Health Services, operated by the Department of Health;

1531           (d) the Utah State Office of Rehabilitation created in Section 35A-1-202; and

1532           (e) special education programs operated by the State Office of Education and local  
1533 school districts under Title 53A, Chapter 15, Part 3, Education of Children with Disabilities.

1534           Section 55. Section **62A-5a-103** is amended to read:

1535           **62A-5a-103. Coordinating Council for Persons with Disabilities -- Creation --**  
1536 **Membership -- Expenses.**

1537           (1) There is created the Coordinating Council for Persons with Disabilities.

1538           (2) The council shall consist of:

1539           (a) the director of the Division of Services for People with Disabilities within the  
1540 Department of Human Services, or ~~[his]~~ the director's designee;

1541 (b) the director of family health services programs, appointed under Section 26-10-3,  
1542 or [his] the director's designee;

1543 (c) the [~~executive~~] director of the Utah State Office of Rehabilitation created in Section  
1544 35A-1-202, or [his] the director's designee;

1545 (d) the state director of special education, or [his] the director's designee;

1546 (e) the director of the Division of Health Care Financing within the Department of  
1547 Health, or [his] the director's designee;

1548 (f) the director of the Division of Substance Abuse and Mental Health within the  
1549 Department of Human Services, or [his] the director's designee;

1550 (g) the superintendent of Schools for the Deaf and the Blind, or [his] the  
1551 superintendent's designee; and

1552 (h) a person with a disability, a family member of a person with a disability, or an  
1553 advocate for persons with disabilities, appointed by the members listed in Subsections (2)(a)  
1554 through (g).

1555 (3) (a) The council shall annually elect a chair from its membership.

1556 (b) Five members of the council are a quorum.

1557 (4) A member may not receive compensation or benefits for the member's service, but  
1558 may receive per diem and travel expenses in accordance with:

1559 (a) Section 63A-3-106;

1560 (b) Section 63A-3-107; and

1561 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
1562 63A-3-107.

1563 Section 56. Section 62A-5a-105 is amended to read:

1564 **62A-5a-105. Coordination of services for school-age children.**

1565 (1) Within appropriations authorized by the Legislature, the state director of special  
1566 education, the [~~executive~~] director of the Utah State Office of Rehabilitation created in Section  
1567 35A-1-202, the executive director of the Department of Human Services, and the family health  
1568 services director within the Department of Health, or their designees, and the affected local

1569 school district shall cooperatively develop a single coordinated education program, treatment  
1570 services, and individual and family supports for students entitled to a free appropriate  
1571 education under Title 53A, Chapter 15, Part 3, Education of Children with Disabilities, who  
1572 also require services from the Department of Human Services, the Department of Health, or the  
1573 Utah State Office of Rehabilitation.

1574 (2) Distribution of costs for services and supports described in Subsection (1) shall be  
1575 determined through a process established by the State Board of Education, the Department of  
1576 Human Services, and the Department of Health.

1577 Section 57. Section **63B-19-201** is amended to read:

1578 **63B-19-201. Authorizations to design and construct capital facilities using**  
1579 **institutional or agency funds.**

1580 (1) The Legislature intends that:

1581 (a) Southern Utah University may, subject to the requirements of Title 63A, Chapter 5,  
1582 State Building Board - Division of Facilities Construction and Management, use \$10,000,000  
1583 in donations and the revenue bond authorized in Subsection **63B-19-102(6)** to plan, design, and  
1584 construct a Southern Utah Museum of Arts, with 28,000 new square feet;

1585 (b) no state funds be used for any portion of this project; and

1586 (c) the university may not request state funds for operation and maintenance costs or  
1587 capital improvements.

1588 (2) The Legislature intends that:

1589 (a) the University of Utah may, subject to the requirements of Title 63A, Chapter 5,  
1590 State Building Board - Division of Facilities Construction and Management, use \$17,878,000  
1591 in donations, federal funds, and institutional funds to plan, design, and construct an addition to  
1592 the Henry Eyring Building, with 40,915 new square feet;

1593 (b) no state funds be used for any portion of this project; and

1594 (c) the university may not request state funds for operation and maintenance costs or  
1595 capital improvements.

1596 (3) The Legislature intends that:

1597 (a) Utah State University may, subject to the requirements of Title 63A, Chapter 5,  
1598 State Building Board - Division of Facilities Construction and Management, use \$3,000,000 in  
1599 donations to plan, design, and construct a Botanical Center classroom building, with 7,900 new  
1600 square feet;

1601 (b) no state funds be used for any portion of this project; and

1602 (c) the university may not request state funds for operation and maintenance costs or  
1603 capital improvements.

1604 (4) The Legislature intends that:

1605 (a) [~~the Division of Services for the Blind and Visually Impaired in~~] the Utah State  
1606 Office of Rehabilitation created in Section 35A-1-202 may, subject to the requirements of Title  
1607 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management,  
1608 use \$1,497,000 in federal grants to plan, design, and construct a residential facility for the  
1609 blind, with 8,000 new square feet;

1610 (b) no state funds be used for any portion of this project; and

1611 (c) the division may not request state funds for operation and maintenance costs or  
1612 capital improvements.

1613 (5) The Legislature intends that:

1614 (a) the Department of Public Safety may, subject to the requirements of Title 63A,  
1615 Chapter 5, State Building Board - Division of Facilities Construction and Management, use  
1616 \$3,294,000 of nonlapsing balances within the driver license line item in the Department of  
1617 Public Safety budget in fiscal year 2010 to plan, design, and construct an Ogden driver license  
1618 building with 10,500 new square feet;

1619 (b) no state funds be used for any portion of this project; and

1620 (c) the department may not request state funds for operation and maintenance costs or  
1621 capital improvements.

1622 (6) The Legislature intends that:

1623 (a) the University of Utah may use donations to prepare preliminary plans for a dental  
1624 school building;

1625 (b) no state funds be used for any portion of the planning; and  
1626 (c) the University of Utah may not design or construct a dental school building unless  
1627 and until the Legislature authorizes:

- 1628 (i) the design and construction of a dental school building;
- 1629 (ii) the University to pursue the establishment of a dental school program; and
- 1630 (iii) the appropriation of funds at a level sufficient to fund a dental school program at  
1631 the University of Utah.

1632 Section 58. Section **63G-6a-805** is amended to read:

1633 **63G-6a-805. Purchase from community rehabilitation programs.**

1634 (1) As used in this section:

1635 (a) "Advisory board" means the Purchasing from Persons with Disabilities Advisory  
1636 Board created under this section.

1637 (b) "Central not-for-profit association" means a group of experts designated by the  
1638 advisory board to do the following, under guidelines established by the advisory board:

- 1639 (i) assist the advisory board with its functions; and
- 1640 (ii) facilitate the implementation of advisory board policies.

1641 (c) (i) "Community rehabilitation program" means a program that is operated primarily  
1642 for the purpose of the employment and training of persons with a disability by a government  
1643 agency or qualified nonprofit organization which is an income tax exempt organization under  
1644 26 U.S.C. Sec. 501(c)(3) of the Internal Revenue Code.

1645 (ii) A community rehabilitation program:

1646 (A) maintains an employment ratio of at least 75% of the program employees under the  
1647 procurement contract in question have severe disabilities;

1648 (B) (I) complies with any applicable occupational health and safety standards  
1649 prescribed by the United States Department of Labor; or

1650 (II) is a supported employment program approved by the Utah State Office of  
1651 Rehabilitation created in Section [35A-1-202](#);

1652 (C) has its principal place of business in Utah;

1653 (D) produces any good provided under this section in Utah; and

1654 (E) provides any service that is provided by individuals with a majority of whom  
1655 domiciled in Utah.

1656 (d) "Person with a disability" means a person with any disability as defined by and  
1657 covered under the Americans with Disabilities Act of 1990, 42 U.S.C. 12102.

1658 (2) There is created within the division the Purchasing from Persons with Disabilities  
1659 Advisory Board.

1660 (3) The advisory board shall consist of three members, as follows:

1661 (a) the director of the division or the director's designee;

1662 (b) the ~~[executive]~~ director of the Utah State Office of Rehabilitation~~], created under~~  
1663 ~~Section 53A-24-103;~~ or the ~~[executive]~~ director's designee; and

1664 (c) a representative of the private business community who shall be appointed to a  
1665 three-year term by the governor with the advice and consent of the Senate.

1666 (4) The advisory board shall meet, as needed, to facilitate the procurement of goods  
1667 and services from community rehabilitation programs by a procurement unit under this chapter  
1668 by:

1669 (a) identifying goods and services that are available from community rehabilitation  
1670 programs in accordance with the requirements of Subsection (7);

1671 (b) approving prices in accordance with Subsection (7)(c) for goods and services that  
1672 are identified under Subsection (4)(a);

1673 (c) developing, maintaining, and approving a preferred procurement contract list of  
1674 goods and services identified and priced under Subsections (4)(a) and (b);

1675 (d) reviewing bids received by a community rehabilitation program; and

1676 (e) awarding and renewing specified contracts for set contract times, without  
1677 competitive bidding, for the purchase of goods and services under Subsection (7).

1678 (5) The provisions of Subsections (4) and (7)(a) are an exception to the procurement  
1679 provisions under this chapter.

1680 (6) (a) The advisory board may designate a central not-for-profit association, appoint

1681 its members, and establish guidelines for its duties.

1682 (b) The designated central not-for-profit association serves at the pleasure of the  
1683 advisory board. The central not-for-profit association or its individual members may be  
1684 removed by the advisory board at any time by a majority vote of the advisory board.

1685 (c) Subject to the advisory board guidelines and discretion, a designated central  
1686 not-for-profit association may be assigned to perform the following duties:

1687 (i) identify qualified community rehabilitation programs and the goods and services  
1688 that they provide or have the potential to provide;

1689 (ii) help ensure that goods and services are provided at reasonable quality and delivery  
1690 levels;

1691 (iii) recommend pricing for goods and services;

1692 (iv) review bids and recommend the award of contracts under the advisory board's  
1693 direction;

1694 (v) collect and report program data to the advisory board and to the division; and

1695 (vi) other duties specified by the advisory board.

1696 (7) Except as provided under Subsection (9), notwithstanding any provision of this  
1697 chapter to the contrary, each procurement unit shall purchase goods and services produced by a  
1698 community rehabilitation program using the preferred procurement contract list approved under  
1699 Subsection (4)(c) if:

1700 (a) the good or service offered for sale by a community rehabilitation program  
1701 reasonably conforms to the needs and specifications of the procurement unit;

1702 (b) the community rehabilitation program can supply the good or service within a  
1703 reasonable time; and

1704 (c) the price of the good or service is reasonably competitive with the cost of procuring  
1705 the good or service from another source.

1706 (8) Each community rehabilitation program:

1707 (a) may submit a bid to the advisory board at any time and not necessarily in response  
1708 to an invitation for bids; and

1709 (b) shall certify on any bid it submits to the advisory board or to a procurement unit  
1710 under this section that it is claiming a preference under this section.

1711 (9) During a fiscal year, the requirement for a procurement unit to purchase goods and  
1712 services produced by a community rehabilitation program under the preferred procurement list  
1713 under Subsection (7) does not apply if the division determines that the total amount of  
1714 procurement contracts with community rehabilitation programs has reached \$5 million for that  
1715 fiscal year.

1716 (10) In the case of conflict between a purchase under this section and a purchase under  
1717 Section [63G-6a-804](#), this section prevails.

1718 Section 59. Section **63I-2-253** is amended to read:

1719 **63I-2-253. Repeal dates -- Titles 53, 53A, and 53B.**

1720 (1) Section [53A-1-403.5](#) is repealed July 1, 2017.

1721 (2) Subsection [53A-1-410](#)(5) is repealed July 1, 2015.

1722 (3) Section [53A-1-411](#) is repealed July 1, 2017.

1723 (4) Section [53A-1a-513.5](#) is repealed July 1, 2017.

1724 (5) Title 53A, Chapter 1a, Part 10, UPSTART, is repealed July 1, 2019.

1725 (6) Title 53A, Chapter 8a, Part 8, Peer Assistance and Review Pilot Program, is  
1726 repealed July 1, 2017.

1727 (7) Sections [53A-24-601](#) and [53A-24-602](#) are repealed January 1, 2018.

1728 Section 60. Section **63J-1-601** is amended to read:

1729 **63J-1-601. End of fiscal year -- Unexpended balances -- Funds not to be closed**  
1730 **out -- Pending claims -- Transfer of amounts from item of appropriation -- Nonlapsing**  
1731 **accounts and funds -- Institutions of higher education to report unexpended balances.**

1732 (1) As used in this section, "transaction control number" means the unique numerical  
1733 identifier established by the Department of Health to track each medical claim and indicates the  
1734 date on which the claim is entered.

1735 (2) On or before August 31 of each fiscal year, the director of the Division of Finance  
1736 shall close out to the proper fund or account all remaining unexpended and unencumbered

- 1737 balances of appropriations made by the Legislature, except:
- 1738 (a) those funds classified under Title 51, Chapter 5, Funds Consolidation Act, as:
- 1739 (i) enterprise funds;
- 1740 (ii) internal service funds;
- 1741 (iii) trust and agency funds;
- 1742 (iv) capital projects funds;
- 1743 (v) discrete component unit funds;
- 1744 (vi) debt service funds; and
- 1745 (vii) permanent funds;
- 1746 (b) those revenue collections, appropriations from a fund or account, or appropriations
- 1747 to a program that are designated as nonlapsing under Sections [63J-1-602.1](#) through
- 1748 [63J-1-602.5](#);
- 1749 (c) expendable special revenue funds, unless specifically directed to close out the fund
- 1750 in the fund's enabling legislation;
- 1751 (d) acquisition and development funds appropriated to the Division of Parks and
- 1752 Recreation;
- 1753 (e) funds encumbered to pay purchase orders issued prior to May 1 for capital
- 1754 equipment if delivery is expected before June 30; and
- 1755 (f) unexpended and unencumbered balances of appropriations that meet the
- 1756 requirements of Section [63J-1-603](#).
- 1757 (3) (a) Liabilities and related expenses for goods and services received on or before
- 1758 June 30 shall be recognized as expenses due and payable from appropriations made prior to
- 1759 June 30.
- 1760 (b) The liability and related expense shall be recognized within time periods
- 1761 established by the Division of Finance but shall be recognized not later than August 31.
- 1762 (c) Liabilities and expenses not so recognized may be paid from regular departmental
- 1763 appropriations for the subsequent fiscal year, if these claims do not exceed unexpended and
- 1764 unencumbered balances of appropriations for the years in which the obligation was incurred.

1765 (d) No amounts may be transferred from an item of appropriation of any department,  
1766 institution, or agency into the Capital Projects Fund or any other fund without the prior express  
1767 approval of the Legislature.

1768 (4) (a) For purposes of this chapter, a claim processed under the authority of Title 26,  
1769 Chapter 18, Medical Assistance Act:

1770 (i) is not a liability or an expense to the state for budgetary purposes, unless the  
1771 Division of Health Care Financing receives the claim within the time periods established by the  
1772 Division of Finance under Subsection (3)(b); and

1773 (ii) is not subject to Subsection (3)(c).

1774 (b) The transaction control number that the Division of Health Care Financing records  
1775 on each claim invoice is the date of receipt.

1776 (5) (a) For purposes of this chapter, a claim processed in accordance with Title ~~53A~~  
1777 35A, Chapter ~~24~~ 13, Utah State Office of Rehabilitation Act:

1778 (i) is not a liability or an expense to the state for budgetary purposes, unless the Utah  
1779 State Office of Rehabilitation receives the claim within the time periods established by the  
1780 Division of Finance under Subsection (3)(b); and

1781 (ii) is not subject to Subsection (3)(c).

1782 (b) (i) The Utah State Office of Rehabilitation shall mark each claim invoice with the  
1783 date on which the Utah State Office of Rehabilitation receives the claim invoice.

1784 (ii) The date described in Subsection (5)(b)(i) is the date of receipt for purposes of this  
1785 section.

1786 (6) Any balance from an appropriation to a state institution of higher education that  
1787 remains unexpended at the end of the fiscal year shall be reported to the Division of Finance by  
1788 the September 1 following the close of the fiscal year.

1789 Section 61. Section **63J-1-602.3** is amended to read:

1790 **63J-1-602.3. List of nonlapsing funds and accounts -- Title 46 through Title 60.**

1791 (1) Funding for the Search and Rescue Financial Assistance Program, as provided in  
1792 Section [53-2a-1102](#).

- 1793           (2) Appropriations made to the Division of Emergency Management from the State  
1794 Disaster Recovery Restricted Account, as provided in Section [53-2a-603](#).
- 1795           (3) Appropriations made to the Department of Public Safety from the Department of  
1796 Public Safety Restricted Account, as provided in Section [53-3-106](#).
- 1797           (4) Appropriations to the Motorcycle Rider Education Program, as provided in Section  
1798 [53-3-905](#).
- 1799           (5) Appropriations from the Utah Highway Patrol Aero Bureau Restricted Account  
1800 created in Section [53-8-303](#).
- 1801           (6) Appropriations from the DNA Specimen Restricted Account created in Section  
1802 [53-10-407](#).
- 1803           (7) The Canine Body Armor Restricted Account created in Section [53-16-201](#).
- 1804           (8) The School Readiness Restricted Account created in Section [53A-1b-104](#).
- 1805           (9) Appropriations to the State Board of Education, as provided in Section  
1806 [53A-17a-105](#).
- 1807           (10) Money received by the Utah State Office of Rehabilitation for the sale of certain  
1808 products or services, as provided in Section [~~[53A-24-105](#)~~] [35A-13-202](#).
- 1809           (11) Certain funds appropriated from the General Fund to the State Board of Regents  
1810 for teacher preparation programs, as provided in Section [53B-6-104](#).
- 1811           (12) Funding for the Medical Education Program administered by the Medical  
1812 Education Council, as provided in Section [53B-24-202](#).
- 1813           (13) A certain portion of money collected for administrative costs under the School  
1814 Institutional Trust Lands Management Act, as provided under Section [53C-3-202](#).
- 1815           (14) Certain surcharges on residential and business telephone numbers imposed by the  
1816 Public Service Commission, as provided in Section [54-8b-10](#).
- 1817           (15) Certain fines collected by the Division of Occupational and Professional Licensing  
1818 for violation of unlawful or unprofessional conduct that are used for education and enforcement  
1819 purposes, as provided in Section [58-17b-505](#).
- 1820           (16) Certain fines collected by the Division of Occupational and Professional Licensing

1821 for use in education and enforcement of the Security Personnel Licensing Act, as provided in  
1822 Section [58-63-103](#).

1823 (17) Appropriations from the Relative Value Study Restricted Account created in  
1824 Section [59-9-105](#).

1825 (18) The Cigarette Tax Restricted Account created in Section [59-14-204](#).

1826 Section 62. Section **78B-1-203** is amended to read:

1827 **78B-1-203. Effectiveness of interpreter determined.**

1828 (1) Before appointing an interpreter, the appointing authority shall make a preliminary  
1829 determination, on the basis of the proficiency level established by the Utah [~~division of~~  
1830 ~~rehabilitation services~~] State Office of Rehabilitation created in Section [35A-1-202](#) and on the  
1831 basis of the hearing-impaired person's testimony, that the interpreter is able to accurately  
1832 communicate with and translate information to and from the hearing-impaired person involved.

1833 (2) If the interpreter is not able to provide effective communication with the  
1834 hearing-impaired person, the appointing authority shall appoint another qualified interpreter.

1835 Section 63. Section **78B-1-206** is amended to read:

1836 **78B-1-206. List of qualified interpreters -- Use -- Appointment of another.**

1837 (1) The Utah [~~division of rehabilitation services~~] State Office of Rehabilitation created  
1838 in Section [35A-1-202](#) shall establish, maintain, update, and distribute a list of qualified  
1839 interpreters.

1840 (2) (a) When an interpreter is required under this part, the appointing authority shall  
1841 use one of the interpreters on the list provided by the Utah [~~division of rehabilitation services~~]  
1842 State Office of Rehabilitation.

1843 (b) If none of the listed interpreters are available or are able to provide effective  
1844 interpreting with the particular hearing-impaired person, then the appointing authority shall  
1845 appoint another qualified interpreter who is able to accurately and simultaneously communicate  
1846 with and translate information to and from the particular hearing-impaired person involved.

1847 Section 64. Section **78B-1-208** is amended to read:

1848 **78B-1-208. Compensation of interpreter.**

1849           (1) An interpreter appointed under this part is entitled to a reasonable fee for his or her  
1850 services, including waiting time and reimbursement for necessary travel and subsistence  
1851 expenses.

1852           (2) The fee shall be based on a fee schedule for interpreters recommended by the  
1853 [~~division of rehabilitation services~~] Utah State Office of Rehabilitation created in Section  
1854 35A-1-202 or on prevailing market rates.

1855           (3) Reimbursement for necessary travel and subsistence expenses shall be at rates  
1856 provided by law for state employees generally.

1857           (4) Compensation for interpreter services shall be paid by the appointing authority if  
1858 the interpreter is not otherwise compensated for those services.

1859           Section 65. **Repealer.**

1860           This bill repeals:

1861           Section **53A-15-205, Disability Determination Services Advisory Council --**  
1862 **Membership -- Duties -- Requirements for DDDS.**

1863           Section **53A-24-110.5, Assistive Technology Advisory Council -- Membership --**  
1864 **Duties.**

1865           Section **53A-24-110.7, Appropriation for assistive technology devices and services.**

1866           Section **53A-24-201, Definition.**

1867           Section **53A-24-202, Creation.**

1868           Section **53A-24-203, Appointment of division director -- Administration.**

1869           Section **53A-24-204, Division responsibilities.**

1870           Section **53A-24-301, Definitions.**

1871           Section **53A-24-302, Creation.**

1872           Section **53A-24-303, Appointment of division director -- Administration.**

1873           Section **53A-24-401, Definitions.**

1874           Section **53A-24-402, Creation.**

1875           Section **53A-24-403, Appointment of administrator for the division.**

1876           Section **53A-24-501, Creation.**

1877 Section **53A-24-502**, **Appointment of administrator for the division.**

1878 Section **53A-24-503**, **Division responsibilities.**

1879 Section 66. **Appropriation -- Operating and capital budgets.**

1880 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for  
 1881 the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money  
 1882 are appropriated from resources not otherwise appropriated, or reduced from amounts  
 1883 previously appropriated, out of the funds or accounts indicated. These sums of money are in  
 1884 addition to amounts previously appropriated for fiscal year 2017.

1885 Item 1: To Department of Workforce Services -- Utah State Office of Rehabilitation

1886	<u>From General Fund</u>	<u>\$21,385,100</u>
1887	<u>From General Fund, one-time</u>	<u>(\$21,385,100)</u>
1888	<u>From General Fund Restricted -- Office of Rehabilitation</u>	
1889	<u>Transition Restricted Account</u>	<u>\$26,385,100</u>
1890	<u>From Federal Funds</u>	<u>\$62,656,000</u>
1891	<u>From Dedicated Credits Revenue</u>	<u>\$985,600</u>

1892 Schedule of Programs:

1893	<u>Executive Director</u>	<u>\$2,965,300</u>
1894	<u>Blind and Visually Impaired</u>	<u>\$6,109,700</u>
1895	<u>Rehabilitation Services</u>	<u>\$46,461,800</u>
1896	<u>Disability Determination</u>	<u>\$15,655,600</u>
1897	<u>Deaf and Hard of Hearing</u>	<u>\$2,988,600</u>
1898	<u>Aspire Grant</u>	<u>\$10,845,700</u>

1899 The Legislature intends that the Department of Workforce Services may spend up to the  
 1900 amount appropriated in this item from the General Fund Restricted -- Office of Rehabilitation  
 1901 Transition Restricted Account for fiscal year 2017, but that expenditures from the account in  
 1902 this item of appropriation plus expenditures from the account at the State Board of Education  
 1903 may not exceed the total amount available in the account.

1904 Item 2: To State Board of Education -- Utah State Office of Rehabilitation

1905	<u>From General Fund</u>	<u>(\$273,700)</u>
1906	<u>From Education Fund</u>	<u>(\$21,111,400)</u>
1907	<u>From General Fund Restricted -- Office of Rehabilitation</u>	
1908	<u>Transition Restricted Account</u>	<u>\$26,385,100</u>

1909 Schedule of Programs:

1910	<u>Vocational Rehabilitation</u>	<u>\$5,000,000</u>
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1911 The Legislature intends that the State Board of Education may spend up to the amount  
 1912 appropriated in this item from the General Fund Restricted -- Office of Rehabilitation  
 1913 Transition Restricted Account for fiscal year 2017, but that expenditures from the account in  
 1914 this item of appropriation plus expenditures from the account at the Department of Workforce  
 1915 Services may not exceed the total amount available in the account.

1916 **Section 67. Appropriation -- Restricted fund and account transfers.**

1917 The Legislature authorizes the Division of Finance to transfer the following amounts  
 1918 among the following funds or accounts as indicated. Expenditures and outlays from the  
 1919 recipient funds must be authorized elsewhere in an appropriations act.

1920 Item 3: To General Fund Restricted -- Office of Rehabilitation Transition  
 1921 Restricted Account

1922	<u>From General Fund, one-time</u>	<u>\$21,385,100</u>
1923	<u>From Beginning Nonlapsing Appropriation Balances</u>	<u>\$5,000,000</u>

1924 Schedule of Programs:

1925	<u>General Fund Restricted -- Office of Rehabilitation</u>	
1926	<u>Transition Restricted Account</u>	<u>\$26,385,100</u>

1927 The Legislature intends that the fiscal year 2016 ending balances at the Utah State  
 1928 Office of Rehabilitation within the State Board of Education not lapse and the Division of  
 1929 Finance transfer those balances into the General Fund Restricted -- Office of Rehabilitation  
 1930 Transition Restricted Account at the close of fiscal year 2016.

1931 **Section 68. Effective date.**

1932 (1) Except as provided in Subsections (2) and (3), this bill takes effect on October 1,

1933 2016.

1934           (2) If approved by two-thirds of all the members elected to each house, amendments to  
1935 Section [53A-24-601](#) and Section [53A-24-602](#) in this bill take effect upon approval by the  
1936 governor, or the day following the constitutional time limit of Utah Constitution, Article VII,  
1937 Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

1938           (3) Uncodified Section 66, Appropriation -- Operating and capital budgets, and Section  
1939 67, Appropriation -- Restricted fund and account transfers, in this bill take effect on July 1,  
1940 2016.