

OFFICE OF REHABILITATION SERVICES AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Norman K Thurston

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

- ▶ consolidates the functions of the Division of Disability Determination Services, the Division of Rehabilitation Services, the Division of Services for the Blind and Visually Impaired, and the Division of Services to the Deaf and Hard of Hearing within the Utah State Office of Rehabilitation; and

- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

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

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

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



- 28 **35A-1-206**, as last amended by Laws of Utah 2014, Chapters 371 and 387
- 29 **53A-1-403.5**, as last amended by Laws of Utah 2012, Chapter 23
- 30 **53A-1a-501.7**, as last amended by Laws of Utah 2008, Chapter 319
- 31 **53A-11-203**, as last amended by Laws of Utah 2015, Chapter 126
- 32 **53A-26a-201**, as enacted by Laws of Utah 1994, Chapter 306
- 33 **54-8b-10**, as last amended by Laws of Utah 2012, Chapter 347
- 34 **55-5-2**, as last amended by Laws of Utah 2011, Chapter 297
- 35 **55-5-7**, as last amended by Laws of Utah 1997, Chapter 10
- 36 **55-5-8**, as last amended by Laws of Utah 1996, Chapter 37
- 37 **55-5a-2**, as last amended by Laws of Utah 1996, Chapter 37
- 38 **55-5a-3**, as last amended by Laws of Utah 1996, Chapter 37
- 39 **55-5a-4**, as last amended by Laws of Utah 1979, Chapter 191
- 40 **55-5a-5**, as last amended by Laws of Utah 1979, Chapter 191
- 41 **62A-5a-102**, as last amended by Laws of Utah 2002, Fifth Special Session, Chapter 8
- 42 **62A-5a-103**, as last amended by Laws of Utah 2010, Chapter 286
- 43 **62A-5a-105**, as last amended by Laws of Utah 1996, Chapter 179
- 44 **63B-19-201**, as enacted by Laws of Utah 2010, Chapter 100
- 45 **63G-6a-805**, as last amended by Laws of Utah 2013, Chapter 445
- 46 **63J-1-601**, as last amended by Laws of Utah 2015, Chapter 239
- 47 **63J-1-602.3**, as last amended by Laws of Utah 2014, Chapters 189 and 304
- 48 **78B-1-203**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 49 **78B-1-206**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 50 **78B-1-208**, as renumbered and amended by Laws of Utah 2008, Chapter 3

51 ENACTS:

- 52 **35A-13-201**, Utah Code Annotated 1953
- 53 **35A-13-301**, Utah Code Annotated 1953
- 54 **35A-13-401**, Utah Code Annotated 1953
- 55 **35A-13-501**, Utah Code Annotated 1953

56 RENUMBERS AND AMENDS:

- 57 **35A-13-101**, (Renumbered from 53A-24-101, as repealed and reenacted by Laws of
- 58 Utah 1988, Chapter 83)

- 59 **35A-13-102**, (Renumbered from 53A-24-102, as last amended by Laws of Utah 2001,
60 First Special Session, Chapter 5)
- 61 **35A-13-103**, (Renumbered from 53A-24-103, as last amended by Laws of Utah 2001,
62 First Special Session, Chapter 5)
- 63 **35A-13-104**, (Renumbered from 53A-24-104, as repealed and reenacted by Laws of
64 Utah 1988, Chapter 83)
- 65 **35A-13-105**, (Renumbered from 53A-24-106, as repealed and reenacted by Laws of
66 Utah 1988, Chapter 83)
- 67 **35A-13-106**, (Renumbered from 53A-24-107, as repealed and reenacted by Laws of
68 Utah 1988, Chapter 83)
- 69 **35A-13-107**, (Renumbered from 53A-24-108, as repealed and reenacted by Laws of
70 Utah 1988, Chapter 83)
- 71 **35A-13-108**, (Renumbered from 53A-24-109, as last amended by Laws of Utah 1996,
72 Chapter 37)
- 73 **35A-13-109**, (Renumbered from 53A-24-110, as last amended by Laws of Utah 1996,
74 Chapter 37)
- 75 **35A-13-202**, (Renumbered from 53A-24-105, as last amended by Laws of Utah 2011,
76 Chapter 303)
- 77 **35A-13-203**, (Renumbered from 53A-24-106.5, as enacted by Laws of Utah 2011,
78 Chapter 169)
- 79 **35A-13-302**, (Renumbered from 53A-24-114, as last amended by Laws of Utah 2008,
80 Chapter 382)
- 81 **35A-13-303**, (Renumbered from 53A-24-205, as last amended by Laws of Utah 1996,
82 Chapter 37)
- 83 **35A-13-402**, (Renumbered from 53A-24-304, as last amended by Laws of Utah 1996,
84 Chapter 37)
- 85 **35A-13-403**, (Renumbered from 53A-24-305, as last amended by Laws of Utah 1996,
86 Chapter 37)
- 87 **35A-13-502**, (Renumbered from 53A-24-404, as last amended by Laws of Utah 1990,
88 Chapter 78)
- 89 **35A-13-503**, (Renumbered from 53A-24-405, as last amended by Laws of Utah 1990,

90 Chapter 78)

91 REPEALS:

- 92 **53A-15-205**, as last amended by Laws of Utah 2013, Chapter 167
- 93 **53A-24-110.5**, as last amended by Laws of Utah 1998, Chapter 403
- 94 **53A-24-110.7**, as last amended by Laws of Utah 2001, Chapter 328
- 95 **53A-24-201**, as enacted by Laws of Utah 1988, Chapter 83
- 96 **53A-24-202**, as enacted by Laws of Utah 1988, Chapter 83
- 97 **53A-24-203**, as enacted by Laws of Utah 1988, Chapter 83
- 98 **53A-24-204**, as last amended by Laws of Utah 1996, Chapter 37
- 99 **53A-24-301**, as last amended by Laws of Utah 1996, Chapter 37
- 100 **53A-24-302**, as last amended by Laws of Utah 1996, Chapter 37
- 101 **53A-24-303**, as last amended by Laws of Utah 1996, Chapter 37
- 102 **53A-24-401**, as enacted by Laws of Utah 1988, Chapter 83
- 103 **53A-24-402**, as last amended by Laws of Utah 1990, Chapter 78
- 104 **53A-24-403**, as last amended by Laws of Utah 1990, Chapter 78
- 105 **53A-24-501**, as enacted by Laws of Utah 1988, Chapter 83
- 106 **53A-24-502**, as last amended by Laws of Utah 1993, Chapter 4
- 107 **53A-24-503**, as last amended by Laws of Utah 1993, Chapter 4

108

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

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

111 **20A-14-103. State Board of Education members -- When elected -- Qualifications**
112 **-- Avoiding conflicts of interest.**

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

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

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

120 (c) In order to ensure that the terms of approximately half of the State Board of

121 Education members expire every two years:

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

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

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

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

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

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

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

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

141 (a) the State Board of Education; or

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

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

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

145 **34A-2-413.5. Injured worker reemployment.**

146 (1) As used in this section:

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

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

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

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

151 (A) education;

152 (B) experience; and
153 (C) physical and mental impairment and condition.
154 (b) "Initial written report" means a report described in Subsection (5).
155 (c) "Injured worker" means an employee who sustains an industrial injury or
156 occupational disease for which benefits are provided under this chapter or Chapter 3, Utah
157 Occupational Disease Act.
158 (d) "Injured worker with a disability" means an injured worker who:
159 (i) because of the injury or disease that is the basis of the employee being an injured
160 worker:
161 (A) is or will be unable to return to work in the injured worker's usual and customary
162 occupation; or
163 (B) is unable to perform work for which the injured worker has previous training and
164 experience; and
165 (ii) reasonably can be expected to attain gainful employment after an evaluation
166 provided for in accordance with this section.
167 (e) "Parties" means:
168 (i) an injured worker with a disability;
169 (ii) the employer of the injured worker with a disability;
170 (iii) the employer's workers' compensation insurance carrier; and
171 (iv) a rehabilitation or reemployment professional for the employer or the employer's
172 workers' compensation insurance carrier.
173 (f) "Reemployment plan" means a written:
174 (i) description or rationale for the manner and means by which it is proposed an injured
175 worker with a disability may return to gainful employment; and
176 (ii) definition of the voluntary responsibilities of:
177 (A) the injured worker with a disability;
178 (B) the employer; and
179 (C) one or more other parties involved with the implementation of the reemployment
180 plan.
181 (2) (a) This section applies only to an industrial injury or occupational disease that
182 occurs on or after July 1, 1990.

183 (b) This section is intended to promote and monitor the state's and the employer's
184 capacity to assist the injured worker in returning to the workforce by evaluating the
185 effectiveness of the voluntary efforts of employers under this section.

186 (3) This section does not affect the duties of the Utah State Office of Rehabilitation
187 created in Section [35A-1-202](#).

188 (4) The commission may provide for the administration of this section by rule in
189 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

190 (5) An employer or the employer's workers' compensation insurance carrier may
191 voluntarily prepare an initial written report assessing an injured worker's need or lack of need
192 for vocational assistance in reemployment if:

193 (a) it appears that the injured worker is or will be an injured worker with a disability; or

194 (b) the period of the injured worker's temporary total disability compensation period
195 exceeds 90 days.

196 (6) (a) Subject to Subsection (6)(b), an employer or the employer's workers'
197 compensation insurance carrier may serve the initial written report, if one has been prepared,
198 on the injured worker.

199 (b) If an employer or the employer's workers' compensation insurance carrier serves an
200 initial written report on an injured worker, the employer or the employer's workers'
201 compensation insurance carrier shall comply with Subsection (6)(a) by no later than 30 days
202 after the earlier of the day on which:

203 (i) it appears that the injured worker is or will be an injured worker with a disability; or

204 (ii) the 90-day period described in Subsection (5)(b) ends.

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

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

213 (a) the Utah State Office of Rehabilitation; or

214 (b) at the employer's or workers' compensation insurance carrier's option, a private
215 rehabilitation or reemployment service.

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

- 218 (a) providing an evaluation; and
- 219 (b) developing a reemployment plan.

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

- 222 (a) same job, same employer;
- 223 (b) modified job, same employer;
- 224 (c) same job, new employer;
- 225 (d) modified job, new employer;
- 226 (e) new job, new employer; or
- 227 (f) retraining in a new occupation.

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

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

232 (12) A rehabilitation counselor to whom a referral is made under Subsection (8) shall
233 have the same or comparable qualifications as those established by the Utah State Office of
234 Rehabilitation for personnel assigned to rehabilitation and evaluation duties.

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

236 **35A-1-202. Divisions -- Creation -- Duties -- Workforce Appeals Board, councils,**
237 **Child Care Advisory Committee, and economic service areas.**

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

239 (a) the Employment Development Division to administer the development and
240 implementation of employment assistance programs that are:

- 241 (i) related to the operations of the department; and
- 242 (ii) consistent with federal and state law;
- 243 (b) to administer those services that are not delivered through the economic service
244 areas:

- 245 (i) the Workforce Development and Information Division; and
 246 (ii) the Unemployment Insurance Division;
 247 (c) the Division of Adjudication to adjudicate claims or actions in accordance with this
 248 title; ~~and~~
 249 (d) the Housing and Community Development Division, which is described in Sections
 250 [35A-8-201](#) and [35A-8-202](#)~~[-]; and~~
 251 (e) the Utah State Office of Rehabilitation, which is described in Section [35A-13-103](#).
 252 (2) In addition to the divisions created under Subsection (1), within the department are
 253 the following:
 254 (a) the Workforce Appeals Board created in Section [35A-1-205](#);
 255 (b) the State Council on Workforce Services created in Section [35A-1-206](#);
 256 (c) the Employment Advisory Council created in Section [35A-4-502](#);
 257 (d) the Child Care Advisory Committee created in Section [35A-3-205](#); and
 258 (e) the economic service areas created in accordance with Chapter 2, Economic Service
 259 Areas.

260 Section 4. Section [35A-1-206](#) is amended to read:

261 **35A-1-206. State Council on Workforce Services -- Appointment -- Membership**
 262 **-- Terms of members -- Compensation.**

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

- 264 (a) perform the activities described in Subsection (8);
 265 (b) advise on issues requested by the department and the Legislature; and
 266 (c) make recommendations to the department regarding:

267 (i) the implementation of Chapter 2, Economic Service Areas, Chapter 3, Employment
 268 Support Act, and Chapter 5, Training and Workforce Improvement Act; and

269 (ii) the coordination of apprenticeship training.

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

271 (i) a private sector representative from each economic service area as designated by the
 272 economic service area director;

273 (ii) the superintendent of public instruction or the superintendent's designee;

274 (iii) the commissioner of higher education or the commissioner's designee; and

275 (iv) the following members appointed by the governor in consultation with the

276 executive director:

277 (A) four representatives of small employers as defined by rule by the department;

278 (B) four representatives of large employers as defined by rule by the department;

279 (C) four representatives of employees or employee organizations, including at least one

280 representative from nominees suggested by public employees organizations;

281 (D) two representatives of the clients served under this title including

282 community-based organizations;

283 (E) a representative of veterans in the state;

284 (F) the [~~executive~~] director of the Utah State Office of Rehabilitation; and

285 (G) the Applied Technology College president.

286 (b) The following shall serve as nonvoting ex officio members of the council:

287 (i) the executive director or the executive director's designee;

288 (ii) a legislator appointed by the governor from nominations of the speaker of the

289 House of Representatives and president of the Senate;

290 (iii) the executive director of the Department of Human Services;

291 (iv) the director of the Governor's Office of Economic Development or the director's

292 designee; and

293 (v) the executive director of the Department of Health.

294 (3) (a) The governor shall appoint one nongovernmental member from the council as

295 the chair of the council.

296 (b) The chair shall serve at the pleasure of the governor.

297 (4) (a) A member appointed by the governor shall serve a term of four years and may

298 be reappointed to one additional term.

299 (b) A member shall continue to serve until the member's successor has been appointed

300 and qualified.

301 (c) Except as provided in Subsection (4)(d), as terms of council members expire, the

302 governor shall appoint each new member or reappointed member to a four-year term.

303 (d) Notwithstanding the requirements of Subsection (4)(c), the governor shall, at the

304 time of appointment or reappointment, adjust the length of terms to ensure that the terms of

305 council members are staggered so that approximately one half of the council is appointed every

306 two years.

307 (e) When a vacancy occurs in the membership for any reason, the replacement shall be
308 appointed for the unexpired term.

309 (5) A majority of the voting members constitutes a quorum for the transaction of
310 business.

311 (6) (a) A member who is not a legislator may not receive compensation or benefits for
312 the member's service, but may receive per diem and travel expenses as allowed in:

313 (i) Section 63A-3-106;

314 (ii) Section 63A-3-107; and

315 (iii) rules made by the Division of Finance according to Sections 63A-3-106 and
316 63A-3-107.

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

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

321 (8) The council shall:

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

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

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

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

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

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

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

335 (i) the Legislature;

336 (ii) the governor; or

337 (iii) the executive director.

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

340 CHAPTER 13. UTAH STATE OFFICE OF REHABILITATION ACT

341 Part 1. General Provisions

342 ~~[53A-24-101].~~ 35A-13-101. Title.

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

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

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

347 ~~[53A-24-102].~~ 35A-13-102. Definitions.

348 As used in this chapter:

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

351 (1) "Blind" means an individual:

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

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

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

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

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

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

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

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

371 (6) "Hearing impaired" means an individual with a diagnosed auditory deficit ranging
 372 from mild to profound that results in functional limitations in one or more areas of daily living.

373 ~~[(9)]~~ (7) "Independent living rehabilitation services" means goods and services
 374 reasonably necessary to enable an individual with a severe disability to maintain or increase
 375 functional independence.

376 (8) "Office" means the Utah State Office of Rehabilitation created in Section
 377 35A-1-202.

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

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

382 ~~[(11)]~~ (10) "Vocational rehabilitation services" means goods and services reasonably
 383 necessary to enable an individual with a disability to obtain and retain employment.

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

386 ~~[53A-24-103].~~ **35A-13-103. Office authority.**

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

391 (2) The ~~[board]~~ department is the sole state agency designated;

392 (a) to administer the state plans for vocational rehabilitation and independent living
 393 rehabilitation programs[-]; and

394 (b) to determine eligibility for provided services under this chapter.

395 (3) The office is the state unit designated to carry out the state plans and other duties
 396 assigned by law or the ~~[board]~~ department.

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

399 ~~[53A-24-104].~~ **35A-13-104. Appointment of director -- Administration of**

400 **the office.**

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

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

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

408 ~~[53A-24-106].~~ **35A-13-105. Public funding of vocational rehabilitation and**
409 **independent living rehabilitation services.**

410 (1) Public funding of vocational rehabilitation and independent living rehabilitation
411 services provided under this chapter may only be provided to eligible individuals who are
412 found to require financial assistance with respect to those services.

413 (2) The [~~executive~~] director [~~may~~] shall, with the approval of the executive director,
414 establish priorities for use in determining services to be provided to eligible individuals under
415 this chapter if the demand for services exceeds available funds.

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

417 Section 10. Section **35A-13-106**, which is renumbered from Section 53A-24-107 is
418 renumbered and amended to read:

419 ~~[53A-24-107].~~ **35A-13-106. Personally identifiable information --**
420 **Nondisclosure -- Penalty.**

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

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

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

430 ~~[53A-24-108].~~ **35A-13-107. Acceptance and use of gifts -- Not subject to**

431 **appropriation.**

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

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

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

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

442 ~~[53A-24-109].~~ **35A-13-108. Delegation of duties and responsibilities of the**
443 **office.**

444 The [~~executive~~] director may, in accordance with applicable law and regulations and
445 with the consent of the executive [~~officer of the board;~~] director, organize the office and
446 delegate duties and responsibilities of [~~the office to one or more of its divisions~~] the office's
447 employees to enable the office to better serve [~~individuals'~~] individuals with disabilities and to
448 increase the efficiency and effectiveness of operations.

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

451 ~~[53A-24-110].~~ **35A-13-109. Office duties to individuals with disabilities.**

452 In administering this chapter, the office:

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

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

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

461 **Part 2. Office Responsibilities**

462 35A-13-201. Title.

463 This part is known as "Office Responsibilities."

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

466 ~~[53A-24-105].~~ 35A-13-202. Functions of the office.

467 The office may:

- 468 (1) apply for, receive, administer, and distribute funds made available through
469 programs of federal [~~or~~], state, or local governments;
- 470 (2) cooperate with federal [~~or~~], state, or local governmental entities to administer
471 programs and program funds;
- 472 (3) contract or cooperate with public or private entities or individuals;
- 473 (4) if designated by the responsible authority, and with the approval of the [~~board~~]
474 department, perform any functions or services for the federal or state government that relate to
475 individuals with disabilities;
- 476 (5) establish subordinate administrative units necessary to increase efficiency and
477 improve the delivery of services to individuals with disabilities;
- 478 (6) establish and operate community service centers, rehabilitation facilities, and
479 workshops, and make grants to public and nonprofit organizations for those purposes;
- 480 (7) determine eligibility for, and the nature and scope of, services to be provided under
481 the state plan for vocational rehabilitation or other programs administered by the office;
- 482 (8) assist individuals with severe disabilities to establish and operate vending machine
483 services and other small businesses, and perform services authorized under Title 55, Chapter 5,
484 Blind Persons Operating Vending Stands - Food Services, and Title 55, Chapter 5a, Blind
485 Products Sales;
- 486 (9) furnish materials, tools, equipment, initial stocks and supplies, and occupational
487 licenses needed by rehabilitation facilities, workshops, and small businesses established under
488 this chapter, and develop and execute marketing plans for materials produced by those
489 operations;
- 490 (10) place money received by the office [~~or a subordinate unit~~] through sale of products
491 or services as authorized under this chapter into a fund managed by the office and used to
492 support additional training, production, and sales activities;

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

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

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

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

501 (15) do all other things necessary to carry out assignments made by law or the [~~board~~]
 502 department in assisting and rehabilitating [~~persons~~] individuals with disabilities.

503 Section 16. Section ~~35A-13-203~~, which is renumbered from Section 53A-24-106.5 is
 504 renumbered and amended to read:

505 ~~[53A-24-106.5]~~. **35A-13-203**. **Employment first emphasis on the provision of**
 506 **services.**

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

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

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

- 517 (a) assessing the strengths and needs of [~~a person~~] an individual with a disability;
- 518 (b) customizing strength-based approaches to obtaining employment;
- 519 (c) setting expectations, providing appropriate services toward, and recognizing
 520 success in:
 - 521 (i) integrated employment in the workplace at competitive wages and benefits; and
 - 522 (ii) self-employment;
 - 523 (d) developing partnerships with potential employers;

- 524 (e) providing appropriate employment training opportunities;
- 525 (f) coordinating services with other government agencies and community resources
- 526 [~~included in the Workforce Investment System~~];
- 527 (g) to the extent possible, eliminating practices and policies that interfere with the
- 528 policy described in Subsection (1); and
- 529 (h) arranging for alternative work experience leading to competitive, integrated
- 530 employment, including work-based training, volunteer work, and internships.

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

- 532 (a) set goals to implement the policy described in Subsection (1) and the plan described
- 533 in Subsection (2);
- 534 (b) determine whether the goals for the previous year have been met; and
- 535 (c) modify the plan described in Subsection (2) as needed.

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

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

538 **35A-13-301. Title.**

539 This part is known as "Governor's Committee on Employment of People with
540 Disabilities."

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

543 ~~[53A-24-114].~~ **35A-13-302. Governor's Committee on Employment of**
544 **People with Disabilities.**

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

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

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

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

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

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

554 [~~(iv) administrative subunits of the state, such as the Department of Human Resource~~]

555 Management, the Department of Workforce Services, Public Education, Higher Education, and
 556 the Department of Human Services;]

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

558 [~~(vi)~~ veterans;]

559 [~~(vii)~~ medical;]

560 [~~(viii)~~ health;]

561 [~~(ix)~~ insurance;]

562 [~~(x)~~ media; and]

563 [~~(xi)~~ the general public.]

564 (1) There is created the Governor's Committee on Employment of People with
 565 Disabilities, composed of the following 13 members:

566 (a) the director of the office;

567 (b) the state superintendent of public instruction or the superintendent's designee;

568 (c) the commissioner of higher education or the commissioner's designee;

569 (d) the executive director of the Department of Human Resource Management or the
 570 executive director's designee;

571 (e) the executive director of the Department of Human Services or the executive
 572 director's designee;

573 (f) the executive director of the Department of Health or the executive director's
 574 designee; and

575 (g) the following seven members appointed by the governor:

576 (i) a representative of individuals who are blind or visually impaired;

577 (ii) a representative of individuals who are deaf or hearing impaired;

578 (iii) a representative of individuals who have disabilities;

579 (iv) a representative of business or industry;

580 (v) a representative experienced in job training and placement;

581 (vi) a representative of veterans; and

582 (vii) a representative experienced in medical, health, or insurance professions.

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

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

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

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

594 [~~(f) The State Board of Education shall select a chair from the membership.]~~

595 (d) The director of the office shall serve as chair of the committee.

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

597 (3) (a) The committee shall:

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

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

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

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

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

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

611 (vii) advise, encourage, and motivate individuals with disabilities who are preparing
612 for or seeking employment to reach their full potential as qualified employees;

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

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

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

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

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

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

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

631 ~~[53A-24-205].~~ **35A-13-303. State rehabilitation advisory council.**

632 (1) The [~~board~~] department shall appoint [~~an advisory council~~] a state rehabilitation
 633 advisory council to advise the [~~office, DRS, and, as appropriate, the board~~] office and the
 634 department concerning the [~~need~~] needs of individuals with disabilities and the [~~activities of~~
 635 ~~DRS regarding~~] provision of vocational rehabilitation services.

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

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

640 (3) A member of the council may not receive compensation or benefits for the
 641 member's service, but may receive per diem and travel expenses in accordance with:

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

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

644 (c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and
 645 63A-3-107.

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

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

648 **35A-13-401. Title.**

649 This part is known as "Services for the Blind and Visually Impaired."

650 Section 21. Section **35A-13-402**, which is renumbered from Section 53A-24-304 is
651 renumbered and amended to read:

652 ~~[53A-24-304].~~ **35A-13-402. Office responsibilities.**

653 ~~[DSBVI]~~ In providing assistance to the blind and visually impaired, the office may:

654 (1) provide:

655 (a) a business enterprise program;

656 (b) sheltered workshops, employment, and training; and

657 (c) vocational rehabilitation, training and adjustment, sight conservation, prevention of
658 blindness, low vision lens, and recreational services for individuals who are blind or have
659 visual impairments;

660 (2) assist public education officials in the discharge of their duties towards children
661 who are blind or have visual impairments, and perform services related to vision screening
662 under Section [53A-11-203](#);

663 (3) maintain a register of individuals who are blind or have visual impairments,
664 including such facts as the ~~[board]~~ office considers necessary for proper planning,
665 administration, and operations, but protecting against unwarranted invasions of privacy;

666 (4) establish and operate community service centers, rehabilitation facilities, and
667 workshops; and

668 (5) perform other duties assigned by the executive director ~~[or the board]~~.

669 Section 22. Section **35A-13-403**, which is renumbered from Section 53A-24-305 is
670 renumbered and amended to read:

671 ~~[53A-24-305].~~ **35A-13-403. Appointment of advisory council.**

672 (1) The ~~[board]~~ department shall appoint an advisory council to advise and assist the
673 ~~[office, DSBVI, and, as appropriate, the board]~~ office and the department in matters relating to
674 the needs of and provision of services to individuals who are blind or have visual impairments
675 ~~[and the activities of DSBVI].~~

676 (2) At least one-third of the members of the council shall be individuals who are blind
677 or have visual impairments.

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

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

680 (3) A member of the council may not receive compensation or benefits for the
681 member's service, but may receive per diem and travel expenses in accordance with:

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

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

684 (c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and
685 63A-3-107.

686 Section 23. Section **35A-13-501** is enacted to read:

687 **Part 5. Services for the Deaf and Hearing Impaired**

688 **35A-13-501. Title.**

689 This part is known as "Services for the Deaf and Hearing Impaired."

690 Section 24. Section **35A-13-502**, which is renumbered from Section 53A-24-404 is
691 renumbered and amended to read:

692 ~~[53A-24-404].~~ **35A-13-502. Office responsibilities.**

693 ~~[DSDHH]~~ In providing assistance to the deaf and hearing impaired, the office may:

694 (1) provide training and adjustment services for adults with hearing impairments;

695 (2) assist public education officials in the discharge of their duties towards children
696 with hearing impairments;

697 (3) maintain a register of qualified interpreters;

698 (4) provide training in the use of telecommunication devices for the deaf, and install
699 and maintain those devices;

700 (5) operate community centers for individuals ~~[with hearing impairments]~~ who are
701 hearing impaired; and

702 (6) perform other duties assigned by the executive director ~~[or the board]~~.

703 Section 25. Section **35A-13-503**, which is renumbered from Section 53A-24-405 is
704 renumbered and amended to read:

705 ~~[53A-24-405].~~ **35A-13-503. Appointment of advisory council.**

706 (1) The ~~[board]~~ department shall appoint an advisory council to advise and assist the
707 ~~[office, DSDHH, and, as appropriate, the board]~~ office and the department in matters relating
708 to the needs of and provision of services to individuals ~~[with hearing impairments and the~~
709 activities of DSDHH] who are hearing impaired.

710 (2) At least one-third of the members of the council shall be individuals [~~with hearing~~
711 ~~impairments~~] who are hearing impaired.

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

714 (3) A member of the council may not receive compensation or benefits for the
715 member's service, but may receive per diem and travel expenses in accordance with:

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

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

718 (c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and
719 63A-3-107.

720 Section 26. Section 53A-1-403.5 is amended to read:

721 **53A-1-403.5. Education of persons in custody of the Utah Department of**
722 **Corrections -- Contracting for services -- Recidivism reduction plan -- Collaboration**
723 **among state agencies.**

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

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

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

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

739 (3) (a) As its corrections education program, the State Board of Education and the Utah
740 Department of Corrections shall develop and implement a recidivism reduction plan, including

741 the following components:

- 742 (i) inmate assessment;
- 743 (ii) cognitive problem-solving skills;
- 744 (iii) basic literacy skills;
- 745 (iv) career skills;
- 746 (v) job placement;
- 747 (vi) postrelease tracking and support;
- 748 (vii) research and evaluation;
- 749 (viii) family involvement and support; and
- 750 (ix) multiagency collaboration.

751 (b) The plan shall be developed and implemented through the State Office of
752 Education and the Utah Department of Corrections in collaboration with the following entities:

- 753 (i) the State Board of Regents;
- 754 (ii) the Utah College of Applied Technology Board of Trustees;
- 755 (iii) local boards of education;
- 756 (iv) the Department of Workforce Services;
- 757 (v) the Department of Human Services;
- 758 (vi) the Board of Pardons and Parole;
- 759 (vii) the Utah State Office of Rehabilitation; and
- 760 (viii) the Governor's Office.

761 (4) By July 1, 2014, and every three years thereafter, the Utah Department of
762 Corrections shall make a report to the Education Interim Committee and the Judiciary, Law
763 Enforcement, and Criminal Justice Interim Committee evaluating the impact of corrections
764 education programs on recidivism.

765 Section 27. Section **53A-1a-501.7** is amended to read:

766 **53A-1a-501.7. State Charter School Board -- Staff director -- Facilities.**

767 (1) (a) The State Charter School Board, with the consent of the superintendent of
768 public instruction, shall appoint a staff director for the State Charter School Board.

769 (b) The State Charter School Board shall have authority to remove the staff director
770 with the consent of the superintendent of public instruction.

771 (c) The position of staff director is exempt from the career service provisions of Title

772 67, Chapter 19, Utah State Personnel Management Act.

773 (2) The superintendent of public instruction shall provide space for staff of the State
774 Charter School Board in facilities occupied by the Utah State Office of Education, with costs
775 charged for the facilities equal to those charged other sections and divisions within the Utah
776 State Office of Education [~~and Utah State Office of Rehabilitation~~].

777 Section 28. Section **53A-11-203** is amended to read:

778 **53A-11-203. Vision screening.**

779 (1) As used in this section:

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

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

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

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

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

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

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

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

800 (iii) shall, once protocols are established under Subsection (3)(a)(ii), develop language
801 regarding the vision problems identified in Subsection (3)(a)(ii) to be included in the notice
802 required by Subsection (3)(b).

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

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

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

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

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

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

816 (i) is a school nurse;

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

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

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

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

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

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

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

830 (b) A school district or charter school may:

831 (i) allow a licensed health professional who provides vision care to private patients to
832 participate as a screener in a free vision screening program for a child 3-1/2 years old or older;

833 (ii) establish guidelines to administer a free vision screening program described in

834 Subsection (7)(b)(i); and

835 (iii) establish penalties for a violation of the requirements of Subsection (7)(c).

836 (c) A licensed health professional or other person who participates as a screener in a
837 free vision screening program described in Subsection (7)(b):

838 (i) may not market, advertise, or promote the licensed health professional's business in
839 connection with providing the free screening at the school; and

840 (ii) shall provide the child's results of the free vision screening on a form produced by
841 the school or school district, which:

842 (A) may not include contact information other than the name of the licensed health
843 professional; and

844 (B) shall include a statement: "vision screening is not a substitute for a complete eye
845 exam and vision evaluation by an eye doctor."

846 (d) A school district or charter school may provide information to a parent or guardian
847 of the availability of follow up vision services for a student.

848 (8) The Department of Health shall:

849 (a) by rule, set standards and procedures for vision screening required by this chapter,
850 which shall include a process for notifying the parent or guardian of a child who fails a vision
851 screening or is identified as needing follow-up care; and

852 (b) provide the [division] office with copies of rules, standards, instructions, and test
853 charts necessary for conducting vision screening.

854 (9) The [division] office shall supervise screening, referral, and follow-up required by
855 this chapter.

856 Section 29. Section **53A-26a-201** is amended to read:

857 **53A-26a-201. Board.**

858 (1) There is created to assist the State Board of Education the Interpreters Certification
859 Board consisting of the following 11 members:

860 (a) a designee of the director of the [~~Division of Services to the Deaf and Hard of~~
861 ~~Hearing (DSDHH) in the~~] Utah State Office of Rehabilitation created in Section [35A-1-202](#);

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

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

864 (d) four professional interpreters, recommended by the director of [~~DSDHH~~] the Utah

865 State Office of Rehabilitation; and

866 (e) four persons who are hearing impaired, recommended by the director of [~~DSDHH~~]
867 the Utah State Office of Rehabilitation.

868 (2) (a) The State Board of Education shall make all appointments to the board.

869 (b) In making its appointments under Subsections (1)(d) and (e), the State Board of
870 Education shall give consideration to recommendations by interpreters for the hearing impaired
871 and members of the hearing impaired community.

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

875 (b) A person may not serve more than two three-year consecutive terms.

876 (c) If a vacancy occurs on the board for any other reason than the expiration of a term,
877 the State Board of Education shall appoint a replacement for the remainder of the term pursuant
878 to Subsections (1) and (2).

879 (4) The State Board of Education may remove any board member for cause, which
880 shall include misconduct, incompetence, or neglect of duty.

881 (5) The board shall elect annually a chair and vice chair from among its members.

882 (6) The board shall meet as often as necessary to accomplish the purposes of this
883 chapter, but not less than quarterly.

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

886 Section 30. Section **54-8b-10** is amended to read:

887 **54-8b-10. Imposing a surcharge to provide hearing and speech impaired persons**
888 **with telecommunication devices -- Definitions -- Procedures for establishing program --**
889 **Surcharge -- Administration and disposition of surcharge money.**

890 (1) As used in this section:

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

893 (i) is so certified by:

894 (A) a licensed physician;

895 (B) an otolaryngologist;

896 (C) a speech language pathologist;

897 (D) an audiologist; or

898 (E) a qualified state agency; and

899 (ii) qualifies for assistance under any low income public assistance program

900 administered by a state agency.

901 (b) "Certified interpreter" means a person who is a certified interpreter under Title
902 53A, Chapter 26a, Interpreter Services for the Hearing Impaired Act.

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

905 (ii) "Telecommunication device" includes:

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

907 (B) telephone amplifiers;

908 (C) telephone signal devices;

909 (D) artificial larynxes; and

910 (E) adaptive equipment for TDD keyboard access.

911 (2) The commission shall hold hearings to establish a program whereby a certified deaf
912 or severely hearing or speech impaired customer of a telecommunications corporation that
913 provides service through a local exchange or of a wireless telecommunications provider may
914 obtain a telecommunication device capable of serving the customer at no charge to the
915 customer beyond the rate for basic service.

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

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

922 (4) (a) The commission shall impose a surcharge on each residential and business
923 access line of each customer of local-exchange telephone service in this state, and each
924 residential and business telephone number of each customer of mobile telephone service in this
925 state, not including a telephone number used exclusively to transfer data to and from a mobile
926 device, which shall be collected by the telecommunications corporation providing public

927 telecommunications service to the customer, to cover the costs of:

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

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

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

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

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

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

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

942 (5) (a) Money collected from the surcharge imposed under Subsection (4) shall be
943 deposited in the state treasury as dedicated credits to be administered as determined by the
944 commission.

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

946 (i) for the purchase, maintenance, repair, and distribution of telecommunication
947 devices;

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

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

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

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

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

955 (A) an institution within the state system of higher education listed in Section
956 [53B-1-102](#) for a program approved by the Board of Regents that trains persons to qualify as
957 certified interpreters; or

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

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

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

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

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

969 (b) If Subsection (6)(a) applies, the telecommunications corporation shall submit to the
970 commission, in lieu of the revenue from the surcharge collection, a breakdown of the
971 anticipated costs and the expected revenue from the collection, showing that the costs exceed
972 the revenue.

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

976 Section 31. Section **55-5-2** is amended to read:

977 **55-5-2. Licensing agency -- Duties of the Utah State Office of Rehabilitation.**

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

981 (2) The [~~Division of Services for the Blind and Visually Impaired,~~] Utah State Office
982 of Rehabilitation shall:

983 (a) take necessary steps to carry out the provisions of this chapter;

984 (b) with the approval of the custodian having charge of the building, park or other
985 property in which the vending stand or other enterprise is to be located, select a location for
986 such stand or enterprise and the type of equipment to be provided;

987 (c) construct and equip stands where blind persons may be trained under the
988 supervision of the [~~Division of Services for the Blind and Visually Impaired~~] Utah State Office

989 of Rehabilitation to carry on a business as a vending stand operator;

990 (d) provide adequate supervision of each person licensed to operate vending stands or
991 other enterprises to ensure efficient and orderly management; and

992 (e) make rules necessary for the proper operation of vending stands or other
993 enterprises.

994 Section 32. Section **55-5-7** is amended to read:

995 **55-5-7. Agencies to negotiate for food service with the Utah State Office of**
996 **Rehabilitation -- Existing contracts.**

997 (1) A governmental agency [~~which~~] that proposes to operate or continue a food service
998 in a public office building shall first attempt in good faith to make an agreement with the
999 [~~Division of Services for the Blind and Visually Impaired~~] Utah State Office of Rehabilitation
1000 created in Section 35A-1-202 to operate the food service without payment of rent.

1001 (2) The governmental agency may not offer or grant to any other party a contract or
1002 concession to operate the food service unless the governmental agency determines in good faith
1003 that the [~~Division of Services for the Blind and Visually Impaired~~] Utah State Office of
1004 Rehabilitation is not willing to or cannot satisfactorily provide the food service.

1005 (3) This act may not impair any valid contract existing on the effective date of this act,
1006 and does not preclude renegotiation of a valid contract on the same terms and with the same
1007 parties.

1008 Section 33. Section **55-5-8** is amended to read:

1009 **55-5-8. Food service in exempt buildings.**

1010 With respect to all state, county, and municipal buildings [~~which~~] that are not subject to
1011 Section **55-5-7**, the governmental agency in charge of the building shall consider allowing the
1012 [~~Division of Services for the Blind and Visually Impaired~~] the Utah State Office of
1013 Rehabilitation created in Section 35A-1-202 to operate any existing or proposed food service in
1014 the building, and shall discuss the operation with the division under Section [~~53A-24-304~~]
1015 35A-13-402 upon its request.

1016 Section 34. Section **55-5a-2** is amended to read:

1017 **55-5a-2. Definitions.**

1018 As used in this [~~act~~] chapter:

1019 (1) "Blind" means an individual, or class of individuals, whose central acuity does not

1020 exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than
1021 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its
1022 widest diameter subtends an angle of no greater than 20 degrees.

1023 [~~(2) "Division" means the Division of Services for the Blind and Visually Impaired.~~]

1024 [(3)] (2) "Direct labor" means work required for preparation, processing and packing,
1025 other than supervision, administration, inspection and shipping.

1026 (3) "Office" means the Utah State Office of Rehabilitation created in Section
1027 [35A-1-202](#).

1028 Section 35. Section **55-5a-3** is amended to read:

1029 **55-5a-3. Permit required to sell blind-made products or services or to make sales**
1030 **to help the blind and visually impaired.**

1031 (1) A person, group of persons, or organization may not, by any means, sell, transfer, or
1032 otherwise dispose of goods, articles, or products to the public in this state [~~which~~] that are
1033 labeled as made by the blind or sold as products of the blind without first securing a permit in
1034 writing from the office for each person selling or soliciting the sale of those goods, articles, or
1035 products [~~from the Division of Services for the Blind and Visually Impaired~~].

1036 (2) A person, group of persons, or organization may not conduct or engage in any
1037 business whatsoever in this state, if the word "blind" is used to designate its product's origin or
1038 manufacture or if it is used in such a manner as to indicate the services, goods, articles, or
1039 products that it provides are blind-made or provide help for the blind or visually impaired,
1040 unless a written permit is obtained from the [~~division~~] office to do so.

1041 (3) A person, group of persons, or organization may not conduct any of the activities
1042 designated in this section using a name, trade name, logo, or other identifying mark or name
1043 which implies that the person, group of persons, or organization using the name is affiliated
1044 with or sponsored by the state or any of its agencies or subdivisions, when the person, group of
1045 persons, or organization is not sponsored or supported by the state or one of its agencies or
1046 subdivisions.

1047 Section 36. Section **55-5a-4** is amended to read:

1048 **55-5a-4. Issuance of permits -- Eligibility -- Fee -- Local license or permit.**

1049 (1) The [~~division~~] office may adopt rules and regulations, prescribe procedures, adopt
1050 forms and applications, review applications for permits, and issue permits as required by

1051 Section 55-5a-3 subject to the following:

1052 (a) A product shall be considered "blind-made" if 75% or more of the direct labor
1053 hours required for its manufacture are provided by the blind.

1054 (b) A person or organization shall be considered to be selling blind-made products if
1055 60% or more of the wholesale cost of the seller's average inventory of products is blind-made
1056 and the seller clearly differentiates by the use of labels or other markings between blind-made
1057 products and other products.

1058 (c) Individuals or businesses are conducting sales by the blind if 75% or more of the
1059 direct labor hours in packaging, marketing, soliciting and making sales are provided by the
1060 blind.

1061 (d) Upon receipt of appropriate documentation indicating qualification of a person or
1062 organization seeking a license under this act, the [division] office shall issue permits for any
1063 one, or a combination of the following: sale of products manufactured by the blind, sale of
1064 blind-made products by the blind, and sale by the blind of products not made by the blind.

1065 (e) No permit shall be issued by the [division] office if the business name, trade name,
1066 or logo of the organization seeking the permit is similar to the name of or in any way implies
1067 an affiliation with or support of the state or one of its agencies or subdivisions if the
1068 organization is not so affiliated.

1069 (2) A fee of not more than \$5 shall be charged for the issuance and renewal of each
1070 permit which shall be valid for a period of one year unless earlier revoked for good cause
1071 shown.

1072 (3) No political subdivision of this state shall issue any license or permit whatsoever to
1073 sell blind-made goods, articles, or products unless the person applying for that license or permit
1074 has first obtained a valid permit issued by the [division] office.

1075 Section 37. Section 55-5a-5 is amended to read:

1076 **55-5a-5. Application for permit -- Investigation -- Exception -- Appeal of denial.**

1077 The [division] office shall investigate each application for a permit to assure that the
1078 person, group of persons, or organization is actually engaged in the manufacture or distribution
1079 of goods, articles, or products made by blind persons within the meaning of this act. The
1080 [division] office may issue permits without investigation, however, to nonresident persons,
1081 groups of persons or organizations upon proof that they are recognized and approved by the

1082 state in which they reside as authorized to sell such goods, articles or products pursuant to a
1083 law of that state imposing requirements substantially similar to those prescribed pursuant to
1084 this act.

1085 Anyone denied a permit may appeal the decision of the ~~[division]~~ office to the state
1086 superintendent of public instruction or his designated agent.

1087 Section 38. Section **62A-5a-102** is amended to read:

1088 **62A-5a-102. Definitions.**

1089 As used in this chapter:

1090 (1) "Council" means the Coordinating Council for Persons with Disabilities.

1091 (2) "State agencies" means:

1092 (a) the Division of Services for People with Disabilities and the Division of Substance
1093 Abuse and Mental Health, within the Department of Human Services;

1094 (b) the Division of Health Care Financing within the Department of Health;

1095 (c) family health services programs established under Title 26, Chapter 10, Family
1096 Health Services, operated by the Department of Health;

1097 (d) the Utah State Office of Rehabilitation created in Section 35A-1-202; and

1098 (e) special education programs operated by the State Office of Education and local
1099 school districts under Title 53A, Chapter 15, Part 3, Education of Children with Disabilities.

1100 Section 39. Section **62A-5a-103** is amended to read:

1101 **62A-5a-103. Coordinating Council for Persons with Disabilities -- Creation --**
1102 **Membership -- Expenses.**

1103 (1) There is created the Coordinating Council for Persons with Disabilities.

1104 (2) The council shall consist of:

1105 (a) the director of the Division of Services for People with Disabilities within the
1106 Department of Human Services, or ~~[his]~~ the director's designee;

1107 (b) the director of family health services programs, appointed under Section 26-10-3,
1108 or ~~[his]~~ the director's designee;

1109 (c) the ~~[executive]~~ director of the Utah State Office of Rehabilitation created in Section
1110 35A-1-202, or ~~[his]~~ the director's designee;

1111 (d) the state director of special education, or ~~[his]~~ the director's designee;

1112 (e) the director of the Division of Health Care Financing within the Department of

1113 Health, or [his] the director's designee;

1114 (f) the director of the Division of Substance Abuse and Mental Health within the
1115 Department of Human Services, or [his] the director's designee;

1116 (g) the superintendent of Schools for the Deaf and the Blind, or [his] the
1117 superintendent's designee; and

1118 (h) a person with a disability, a family member of a person with a disability, or an
1119 advocate for persons with disabilities, appointed by the members listed in Subsections (2)(a)
1120 through (g).

1121 (3) (a) The council shall annually elect a chair from its membership.

1122 (b) Five members of the council are a quorum.

1123 (4) A member may not receive compensation or benefits for the member's service, but
1124 may receive per diem and travel expenses in accordance with:

1125 (a) Section [63A-3-106](#);

1126 (b) Section [63A-3-107](#); and

1127 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
1128 [63A-3-107](#).

1129 Section 40. Section **62A-5a-105** is amended to read:

1130 **62A-5a-105. Coordination of services for school-age children.**

1131 (1) Within appropriations authorized by the Legislature, the state director of special
1132 education, the [~~executive~~] director of the Utah State Office of Rehabilitation created in Section
1133 [35A-1-202](#), the executive director of the Department of Human Services, and the family health
1134 services director within the Department of Health, or their designees, and the affected local
1135 school district shall cooperatively develop a single coordinated education program, treatment
1136 services, and individual and family supports for students entitled to a free appropriate
1137 education under Title 53A, Chapter 15, Part 3, Education of Children with Disabilities, who
1138 also require services from the Department of Human Services, the Department of Health, or the
1139 Utah State Office of Rehabilitation.

1140 (2) Distribution of costs for services and supports described in Subsection (1) shall be
1141 determined through a process established by the State Board of Education, the Department of
1142 Human Services, and the Department of Health.

1143 Section 41. Section **63B-19-201** is amended to read:

1144 **63B-19-201. Authorizations to design and construct capital facilities using**
1145 **institutional or agency funds.**

1146 (1) The Legislature intends that:

1147 (a) Southern Utah University may, subject to the requirements of Title 63A, Chapter 5,
1148 State Building Board - Division of Facilities Construction and Management, use \$10,000,000
1149 in donations and the revenue bond authorized in Subsection [63B-19-102\(6\)](#) to plan, design, and
1150 construct a Southern Utah Museum of Arts, with 28,000 new square feet;

1151 (b) no state funds be used for any portion of this project; and

1152 (c) the university may not request state funds for operation and maintenance costs or
1153 capital improvements.

1154 (2) The Legislature intends that:

1155 (a) the University of Utah may, subject to the requirements of Title 63A, Chapter 5,
1156 State Building Board - Division of Facilities Construction and Management, use \$17,878,000
1157 in donations, federal funds, and institutional funds to plan, design, and construct an addition to
1158 the Henry Eyring Building, with 40,915 new square feet;

1159 (b) no state funds be used for any portion of this project; and

1160 (c) the university may not request state funds for operation and maintenance costs or
1161 capital improvements.

1162 (3) The Legislature intends that:

1163 (a) Utah State University may, subject to the requirements of Title 63A, Chapter 5,
1164 State Building Board - Division of Facilities Construction and Management, use \$3,000,000 in
1165 donations to plan, design, and construct a Botanical Center classroom building, with 7,900 new
1166 square feet;

1167 (b) no state funds be used for any portion of this project; and

1168 (c) the university may not request state funds for operation and maintenance costs or
1169 capital improvements.

1170 (4) The Legislature intends that:

1171 (a) [~~the Division of Services for the Blind and Visually Impaired in~~] the Utah State
1172 Office of Rehabilitation created in Section [35A-1-202](#) may, subject to the requirements of Title
1173 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management,
1174 use \$1,497,000 in federal grants to plan, design, and construct a residential facility for the

1175 blind, with 8,000 new square feet;

1176 (b) no state funds be used for any portion of this project; and

1177 (c) the division may not request state funds for operation and maintenance costs or
1178 capital improvements.

1179 (5) The Legislature intends that:

1180 (a) the Department of Public Safety may, subject to the requirements of Title 63A,
1181 Chapter 5, State Building Board - Division of Facilities Construction and Management, use
1182 \$3,294,000 of nonlapsing balances within the driver license line item in the Department of
1183 Public Safety budget in fiscal year 2010 to plan, design, and construct an Ogden driver license
1184 building with 10,500 new square feet;

1185 (b) no state funds be used for any portion of this project; and

1186 (c) the department may not request state funds for operation and maintenance costs or
1187 capital improvements.

1188 (6) The Legislature intends that:

1189 (a) the University of Utah may use donations to prepare preliminary plans for a dental
1190 school building;

1191 (b) no state funds be used for any portion of the planning; and

1192 (c) the University of Utah may not design or construct a dental school building unless
1193 and until the Legislature authorizes:

1194 (i) the design and construction of a dental school building;

1195 (ii) the University to pursue the establishment of a dental school program; and

1196 (iii) the appropriation of funds at a level sufficient to fund a dental school program at
1197 the University of Utah.

1198 Section 42. Section **63G-6a-805** is amended to read:

1199 **63G-6a-805. Purchase from community rehabilitation programs.**

1200 (1) As used in this section:

1201 (a) "Advisory board" means the Purchasing from Persons with Disabilities Advisory
1202 Board created under this section.

1203 (b) "Central not-for-profit association" means a group of experts designated by the
1204 advisory board to do the following, under guidelines established by the advisory board:

1205 (i) assist the advisory board with its functions; and

1206 (ii) facilitate the implementation of advisory board policies.

1207 (c) (i) "Community rehabilitation program" means a program that is operated primarily
1208 for the purpose of the employment and training of persons with a disability by a government
1209 agency or qualified nonprofit organization which is an income tax exempt organization under
1210 26 U.S.C. Sec. 501(c)(3) of the Internal Revenue Code.

1211 (ii) A community rehabilitation program:

1212 (A) maintains an employment ratio of at least 75% of the program employees under the
1213 procurement contract in question have severe disabilities;

1214 (B) (I) complies with any applicable occupational health and safety standards
1215 prescribed by the United States Department of Labor; or

1216 (II) is a supported employment program approved by the Utah State Office of
1217 Rehabilitation created in Section [35A-1-202](#);

1218 (C) has its principal place of business in Utah;

1219 (D) produces any good provided under this section in Utah; and

1220 (E) provides any service that is provided by individuals with a majority of whom
1221 domiciled in Utah.

1222 (d) "Person with a disability" means a person with any disability as defined by and
1223 covered under the Americans with Disabilities Act of 1990, 42 U.S.C. 12102.

1224 (2) There is created within the division the Purchasing from Persons with Disabilities
1225 Advisory Board.

1226 (3) The advisory board shall consist of three members, as follows:

1227 (a) the director of the division or the director's designee;

1228 (b) the ~~[executive]~~ director of the Utah State Office of Rehabilitation~~[-created under~~
1229 ~~Section [53A-24-103](#)];~~ or the ~~[executive]~~ director's designee; and

1230 (c) a representative of the private business community who shall be appointed to a
1231 three-year term by the governor with the advice and consent of the Senate.

1232 (4) The advisory board shall meet, as needed, to facilitate the procurement of goods
1233 and services from community rehabilitation programs by a procurement unit under this chapter
1234 by:

1235 (a) identifying goods and services that are available from community rehabilitation
1236 programs in accordance with the requirements of Subsection (7);

1237 (b) approving prices in accordance with Subsection (7)(c) for goods and services that
1238 are identified under Subsection (4)(a);

1239 (c) developing, maintaining, and approving a preferred procurement contract list of
1240 goods and services identified and priced under Subsections (4)(a) and (b);

1241 (d) reviewing bids received by a community rehabilitation program; and

1242 (e) awarding and renewing specified contracts for set contract times, without
1243 competitive bidding, for the purchase of goods and services under Subsection (7).

1244 (5) The provisions of Subsections (4) and (7)(a) are an exception to the procurement
1245 provisions under this chapter.

1246 (6) (a) The advisory board may designate a central not-for-profit association, appoint
1247 its members, and establish guidelines for its duties.

1248 (b) The designated central not-for-profit association serves at the pleasure of the
1249 advisory board. The central not-for-profit association or its individual members may be
1250 removed by the advisory board at any time by a majority vote of the advisory board.

1251 (c) Subject to the advisory board guidelines and discretion, a designated central
1252 not-for-profit association may be assigned to perform the following duties:

1253 (i) identify qualified community rehabilitation programs and the goods and services
1254 that they provide or have the potential to provide;

1255 (ii) help ensure that goods and services are provided at reasonable quality and delivery
1256 levels;

1257 (iii) recommend pricing for goods and services;

1258 (iv) review bids and recommend the award of contracts under the advisory board's
1259 direction;

1260 (v) collect and report program data to the advisory board and to the division; and

1261 (vi) other duties specified by the advisory board.

1262 (7) Except as provided under Subsection (9), notwithstanding any provision of this
1263 chapter to the contrary, each procurement unit shall purchase goods and services produced by a
1264 community rehabilitation program using the preferred procurement contract list approved under
1265 Subsection (4)(c) if:

1266 (a) the good or service offered for sale by a community rehabilitation program
1267 reasonably conforms to the needs and specifications of the procurement unit;

1268 (b) the community rehabilitation program can supply the good or service within a
1269 reasonable time; and

1270 (c) the price of the good or service is reasonably competitive with the cost of procuring
1271 the good or service from another source.

1272 (8) Each community rehabilitation program:

1273 (a) may submit a bid to the advisory board at any time and not necessarily in response
1274 to an invitation for bids; and

1275 (b) shall certify on any bid it submits to the advisory board or to a procurement unit
1276 under this section that it is claiming a preference under this section.

1277 (9) During a fiscal year, the requirement for a procurement unit to purchase goods and
1278 services produced by a community rehabilitation program under the preferred procurement list
1279 under Subsection (7) does not apply if the division determines that the total amount of
1280 procurement contracts with community rehabilitation programs has reached \$5 million for that
1281 fiscal year.

1282 (10) In the case of conflict between a purchase under this section and a purchase under
1283 Section [63G-6a-804](#), this section prevails.

1284 Section 43. Section **63J-1-601** is amended to read:

1285 **63J-1-601. End of fiscal year -- Unexpended balances -- Funds not to be closed**
1286 **out -- Pending claims -- Transfer of amounts from item of appropriation -- Nonlapsing**
1287 **accounts and funds -- Institutions of higher education to report unexpended balances.**

1288 (1) As used in this section, "transaction control number" means the unique numerical
1289 identifier established by the Department of Health to track each medical claim and indicates the
1290 date on which the claim is entered.

1291 (2) On or before August 31 of each fiscal year, the director of the Division of Finance
1292 shall close out to the proper fund or account all remaining unexpended and unencumbered
1293 balances of appropriations made by the Legislature, except:

1294 (a) those funds classified under Title 51, Chapter 5, Funds Consolidation Act, as:

1295 (i) enterprise funds;

1296 (ii) internal service funds;

1297 (iii) trust and agency funds;

1298 (iv) capital projects funds;

- 1299 (v) discrete component unit funds;
1300 (vi) debt service funds; and
1301 (vii) permanent funds;
- 1302 (b) those revenue collections, appropriations from a fund or account, or appropriations
1303 to a program that are designated as nonlapsing under Sections [63J-1-602.1](#) through
1304 [63J-1-602.5](#);
- 1305 (c) expendable special revenue funds, unless specifically directed to close out the fund
1306 in the fund's enabling legislation;
- 1307 (d) acquisition and development funds appropriated to the Division of Parks and
1308 Recreation;
- 1309 (e) funds encumbered to pay purchase orders issued prior to May 1 for capital
1310 equipment if delivery is expected before June 30; and
- 1311 (f) unexpended and unencumbered balances of appropriations that meet the
1312 requirements of Section [63J-1-603](#).
- 1313 (3) (a) Liabilities and related expenses for goods and services received on or before
1314 June 30 shall be recognized as expenses due and payable from appropriations made prior to
1315 June 30.
- 1316 (b) The liability and related expense shall be recognized within time periods
1317 established by the Division of Finance but shall be recognized not later than August 31.
- 1318 (c) Liabilities and expenses not so recognized may be paid from regular departmental
1319 appropriations for the subsequent fiscal year, if these claims do not exceed unexpended and
1320 unencumbered balances of appropriations for the years in which the obligation was incurred.
- 1321 (d) No amounts may be transferred from an item of appropriation of any department,
1322 institution, or agency into the Capital Projects Fund or any other fund without the prior express
1323 approval of the Legislature.
- 1324 (4) (a) For purposes of this chapter, a claim processed under the authority of Title 26,
1325 Chapter 18, Medical Assistance Act:
- 1326 (i) is not a liability or an expense to the state for budgetary purposes, unless the
1327 Division of Health Care Financing receives the claim within the time periods established by the
1328 Division of Finance under Subsection (3)(b); and
1329 (ii) is not subject to Subsection (3)(c).

1330 (b) The transaction control number that the Division of Health Care Financing records
1331 on each claim invoice is the date of receipt.

1332 (5) (a) For purposes of this chapter, a claim processed in accordance with Title ~~[53A]~~
1333 35A, Chapter ~~[24]~~ 13, Utah State Office of Rehabilitation Act:

1334 (i) is not a liability or an expense to the state for budgetary purposes, unless the Utah
1335 State Office of Rehabilitation receives the claim within the time periods established by the
1336 Division of Finance under Subsection (3)(b); and

1337 (ii) is not subject to Subsection (3)(c).

1338 (b) (i) The Utah State Office of Rehabilitation shall mark each claim invoice with the
1339 date on which the Utah State Office of Rehabilitation receives the claim invoice.

1340 (ii) The date described in Subsection (5)(b)(i) is the date of receipt for purposes of this
1341 section.

1342 (6) Any balance from an appropriation to a state institution of higher education that
1343 remains unexpended at the end of the fiscal year shall be reported to the Division of Finance by
1344 the September 1 following the close of the fiscal year.

1345 Section 44. Section **63J-1-602.3** is amended to read:

1346 **63J-1-602.3. List of nonlapsing funds and accounts -- Title 46 through Title 60.**

1347 (1) Funding for the Search and Rescue Financial Assistance Program, as provided in
1348 Section [53-2a-1102](#).

1349 (2) Appropriations made to the Division of Emergency Management from the State
1350 Disaster Recovery Restricted Account, as provided in Section [53-2a-603](#).

1351 (3) Appropriations made to the Department of Public Safety from the Department of
1352 Public Safety Restricted Account, as provided in Section [53-3-106](#).

1353 (4) Appropriations to the Motorcycle Rider Education Program, as provided in Section
1354 [53-3-905](#).

1355 (5) Appropriations from the Utah Highway Patrol Aero Bureau Restricted Account
1356 created in Section [53-8-303](#).

1357 (6) Appropriations from the DNA Specimen Restricted Account created in Section
1358 [53-10-407](#).

1359 (7) The Canine Body Armor Restricted Account created in Section [53-16-201](#).

1360 (8) The School Readiness Restricted Account created in Section [53A-1b-104](#).

- 1361 (9) Appropriations to the State Board of Education, as provided in Section
1362 [53A-17a-105](#).
- 1363 (10) Money received by the Utah State Office of Rehabilitation for the sale of certain
1364 products or services, as provided in Section [~~53A-24-105~~] [35A-13-202](#).
- 1365 (11) Certain funds appropriated from the General Fund to the State Board of Regents
1366 for teacher preparation programs, as provided in Section [53B-6-104](#).
- 1367 (12) Funding for the Medical Education Program administered by the Medical
1368 Education Council, as provided in Section [53B-24-202](#).
- 1369 (13) A certain portion of money collected for administrative costs under the School
1370 Institutional Trust Lands Management Act, as provided under Section [53C-3-202](#).
- 1371 (14) Certain surcharges on residential and business telephone numbers imposed by the
1372 Public Service Commission, as provided in Section [54-8b-10](#).
- 1373 (15) Certain fines collected by the Division of Occupational and Professional Licensing
1374 for violation of unlawful or unprofessional conduct that are used for education and enforcement
1375 purposes, as provided in Section [58-17b-505](#).
- 1376 (16) Certain fines collected by the Division of Occupational and Professional Licensing
1377 for use in education and enforcement of the Security Personnel Licensing Act, as provided in
1378 Section [58-63-103](#).
- 1379 (17) Appropriations from the Relative Value Study Restricted Account created in
1380 Section [59-9-105](#).
- 1381 (18) The Cigarette Tax Restricted Account created in Section [59-14-204](#).
- 1382 Section 45. Section **78B-1-203** is amended to read:
- 1383 **78B-1-203. Effectiveness of interpreter determined.**
- 1384 Before appointing an interpreter, the appointing authority shall make a preliminary
1385 determination, on the basis of the proficiency level established by the Utah [~~division of~~
1386 ~~rehabilitation services~~] State Office of Rehabilitation created in Section [35A-1-202](#) and on the
1387 basis of the hearing-impaired person's testimony, that the interpreter is able to accurately
1388 communicate with and translate information to and from the hearing-impaired person involved.
1389 If the interpreter is not able to provide effective communication with the hearing-impaired
1390 person, the appointing authority shall appoint another qualified interpreter.
- 1391 Section 46. Section **78B-1-206** is amended to read:

1392 **78B-1-206. List of qualified interpreters -- Use -- Appointment of another.**

1393 (1) The Utah [~~division of rehabilitation services~~] State Office of Rehabilitation created
1394 in Section [35A-1-202](#) shall establish, maintain, update, and distribute a list of qualified
1395 interpreters.

1396 (2) When an interpreter is required under this part, the appointing authority shall use
1397 one of the interpreters on the list provided by the Utah [~~division of rehabilitation services~~] State
1398 Office of Rehabilitation. If none of the listed interpreters are available or are able to provide
1399 effective interpreting with the particular hearing-impaired person, then the appointing authority
1400 shall appoint another qualified interpreter who is able to accurately and simultaneously
1401 communicate with and translate information to and from the particular hearing-impaired person
1402 involved.

1403 Section 47. Section **78B-1-208** is amended to read:

1404 **78B-1-208. Compensation of interpreter.**

1405 An interpreter appointed under this part is entitled to a reasonable fee for his or her
1406 services, including waiting time and reimbursement for necessary travel and subsistence
1407 expenses. The fee shall be based on a fee schedule for interpreters recommended by the
1408 [~~division of rehabilitation services~~] Utah State Office of Rehabilitation created in Section
1409 [35A-1-202](#) or on prevailing market rates. Reimbursement for necessary travel and subsistence
1410 expenses shall be at rates provided by law for state employees generally. Compensation for
1411 interpreter services shall be paid by the appointing authority if the interpreter is not otherwise
1412 compensated for those services.

1413 Section 48. **Repealer.**

1414 This bill repeals:

1415 Section [53A-15-205](#), **Disability Determination Services Advisory Council --**

1416 **Membership -- Duties -- Requirements for DDDS.**

1417 Section [53A-24-110.5](#), **Assistive Technology Advisory Council -- Membership --**

1418 **Duties.**

1419 Section [53A-24-110.7](#), **Appropriation for assistive technology devices and services.**

1420 Section [53A-24-201](#), **Definition.**

1421 Section [53A-24-202](#), **Creation.**

1422 Section [53A-24-203](#), **Appointment of division director -- Administration.**

- 1423 Section **53A-24-204**, **Division responsibilities.**
- 1424 Section **53A-24-301**, **Definitions.**
- 1425 Section **53A-24-302**, **Creation.**
- 1426 Section **53A-24-303**, **Appointment of division director -- Administration.**
- 1427 Section **53A-24-401**, **Definitions.**
- 1428 Section **53A-24-402**, **Creation.**
- 1429 Section **53A-24-403**, **Appointment of administrator for the division.**
- 1430 Section **53A-24-501**, **Creation.**
- 1431 Section **53A-24-502**, **Appointment of administrator for the division.**
- 1432 Section **53A-24-503**, **Division responsibilities.**
- 1433 Section 49. **Effective date.**
- 1434 This bill takes effect on July 1, 2016.

Legislative Review Note
Office of Legislative Research and General Counsel