

## HB0437S01 compared with HB0437

~~text~~ shows text that was in HB0437 but was deleted in HB0437S01.

Inserted text shows text that was not in HB0437 but was inserted into HB0437S01.

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Representative Ken Ivory proposes the following substitute bill:

### STATE TRAINING AND CERTIFICATION

#### REQUIREMENTS ~~}~~

#### ~~}~~ AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ken Ivory**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill ~~modifies~~ enacts requirements related to ~~required~~ certain training and certification required of public officials, employees, and volunteers.

##### Highlighted Provisions:

This bill:

- ▶ requires that certain ~~required~~ training and certification required of public officials, employees, and volunteers be presented or available in an online web-based format, unless the training or certification includes a physical or interactive component that can only be completed in person; and

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- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

#### AMENDS:

- 4-2-2, as last amended by Laws of Utah 2011, Chapter 383
- 9-1-201, as last amended by Laws of Utah 2014, Chapter 371
- 11-13-225, as enacted by Laws of Utah 2015, Chapter 265
- 13-1-2, as last amended by Laws of Utah 2010, Chapter 278
- 17B-1-312, as last amended by Laws of Utah 2016, Chapter 273
- 19-1-201, as last amended by Laws of Utah 2015, Chapters 441 and 453
- 26-1-30, as last amended by Laws of Utah 2015, Chapter 73
- 31A-2-201, as last amended by Laws of Utah 2010, Chapter 68
- 32B-2-207, as last amended by Laws of Utah 2012, Chapter 365
- 34A-6-109, as renumbered and amended by Laws of Utah 1997, Chapter 375
- 35A-1-104, as last amended by Laws of Utah 2016, Chapters 133 and 296
- 41-6a-303, as last amended by Laws of Utah 2010, Chapter 299
- 52-4-104, as enacted by Laws of Utah 2006, Chapter 263
- 53-1-106, as last amended by Laws of Utah 2013, Chapter 295
- ~~53A-1-603~~53A-1-401, as last amended by Laws of Utah 2016, ~~(Chapters 203 and 221)~~Chapter 232
- 53B-1-103, as last amended by Laws of Utah 2016, Chapter 236
- 53D-1-303, as enacted by Laws of Utah 2014, Chapter 426
- 59-2-702, as last amended by Laws of Utah 2001, Chapter 214
- 59-2-1001, as last amended by Laws of Utah 2013, Chapter 180
- 62A-1-111, as last amended by Laws of Utah 2016, Chapter 296
- 63F-1-104, as last amended by Laws of Utah 2016, Chapter 13
- 63G-6a-303, as repealed and reenacted by Laws of Utah 2016, Chapter 355
- 64-13-6, as last amended by Laws of Utah 2016, Chapter 243

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67-3-1, as last amended by Laws of Utah 2015, Chapter 174

67-5-1, as last amended by Laws of Utah 2016, Chapter 120

67-5a-1, as last amended by Laws of Utah 2001, Chapter 131

67-5b-102, as last amended by Laws of Utah 2016, Chapter 290

67-19-6, as last amended by Laws of Utah 2015, Chapter 175

67-19e-110, as enacted by Laws of Utah 2016, Chapter 237

71-8-2, as last amended by Laws of Utah 2016, Chapters 68, 230, and 252

72-1-201, as last amended by Laws of Utah 2016, Chapter 137

76-9-907, as enacted by Laws of Utah 2009, Chapter 86

78A-2-107, as renumbered and amended by Laws of Utah 2008, Chapter 3

78B-6-204, as last amended by Laws of Utah 2011, Chapter 51

79-2-202, as renumbered and amended by Laws of Utah 2009, Chapter 344

### ENACTS:

7-1-212, Utah Code Annotated 1953

10-1-204, Utah Code Annotated 1953

17-50-108, Utah Code Annotated 1953

63A-1-117, Utah Code Annotated 1953

63G-21-101, Utah Code Annotated 1953

63G-21-102, Utah Code Annotated 1953

63G-21-103, Utah Code Annotated 1953

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

Section 1. Section **4-2-2** is amended to read:

**4-2-2. Functions, powers, and duties of department -- Fees for services --**

**Marketing orders -- Procedure.**

(1) The department shall:

(a) inquire into and promote the interests and products of agriculture and its allied industries;

(b) promote methods for increasing the production and facilitating the distribution of the agricultural products of the state;

(c) (i) inquire into the cause of contagious, infectious, and communicable diseases

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among livestock and the means for their prevention and cure; and

(ii) initiate, implement, and administer plans and programs to prevent the spread of diseases among livestock;

(d) encourage experiments designed to determine the best means and methods for the control of diseases among domestic and wild animals;

(e) issue marketing orders for any designated agricultural product to:

(i) promote orderly market conditions for any product;

(ii) give the producer a fair return on the producer's investment at the marketplace; and

(iii) only promote and not restrict or restrain the marketing of Utah agricultural commodities;

(f) administer and enforce all laws assigned to the department by the Legislature;

(g) establish standards and grades for agricultural products and fix and collect reasonable fees for services performed by the department in conjunction with the grading of agricultural products;

(h) establish operational standards for any establishment that manufactures, processes, produces, distributes, stores, sells, or offers for sale any agricultural product;

(i) adopt, according to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, rules necessary for the effective administration of the agricultural laws of the state;

(j) when necessary, make investigations, subpoena witnesses and records, conduct hearings, issue orders, and make recommendations concerning all matters related to agriculture;

(k) (i) inspect any nursery, orchard, farm, garden, park, cemetery, greenhouse, or any private or public place that may become infested or infected with harmful insects, plant diseases, noxious or poisonous weeds, or other agricultural pests;

(ii) establish and enforce quarantines;

(iii) issue and enforce orders and rules for the control and eradication of pests, wherever they may exist within the state; and

(iv) perform other duties relating to plants and plant products considered advisable and not contrary to law;

(l) inspect apiaries for diseases inimical to bees and beekeeping;

(m) take charge of any agricultural exhibit within the state, if considered necessary by

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the department, and award premiums at that exhibit;

(n) assist the Conservation Commission in the administration of Title 4, Chapter 18, Conservation Commission Act, and administer and disburse any funds available to assist conservation districts in the state in the conservation of the state's soil and water resources;

(o) participate in the United States Department of Agriculture certified agricultural mediation program, in accordance with 7 U.S.C. Sec. 5101 and 7 C.F.R. Part 785;

(p) promote and support the multiple use of public lands; ~~and~~

(q) ensure that any training or certification [required of a public official or public employee, as those terms are defined in Section 63G-21-102](#), complies with Title 63G, Chapter 21, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department; and

~~(r)~~ (r) perform any additional functions, powers, and duties provided by law.

(2) The department, by following the procedures and requirements of Section 63J-1-504, may adopt a schedule of fees assessed for services provided by the department.

(3) (a) No marketing order issued under Subsection (1)(e) shall take effect until:

(i) the department gives notice of the proposed order to the producers and handlers of the affected product;

(ii) the commissioner conducts a hearing on the proposed order; and

(iii) at least 50% of the registered producers and handlers of the affected products vote in favor of the proposed order.

(b) (i) The department may establish boards of control to administer marketing orders and the proceeds derived from any order.

(ii) The board of control shall:

(A) ensure that all proceeds are placed in an account in the board of control's name in a depository institution; and

(B) ensure that the account is annually audited by an accountant approved by the commissioner.

(4) Funds collected by grain grading, as provided by Subsection (1)(g), shall be deposited in the General Fund as dedicated credits for the grain grading program.

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Section 2. Section 7-1-212 is enacted to read:

### **7-1-212. Compliance with training and certification requirements.**

The department shall ensure that any training or certification [required of a public official or public employee, as those terms are defined in Section 63G-21-102](#), complies with Title 63G, Chapter 21, State Training and Certification Requirements, if the training or certification is required:

- (1) under this title;
- (2) by the department; or
- (3) by an agency or division within the department.

Section 3. Section 9-1-201 is amended to read:

### **9-1-201. Department of Heritage and Arts -- Creation -- Powers and duties.**

- (1) There is created the Department of Heritage and Arts.
- (2) The department shall:
  - (a) be responsible for preserving and promoting the heritage of the state, the arts in the state, and cultural development within the state;
  - (b) perform heritage, arts, and cultural development planning for the state;
  - (c) coordinate the program plans of the various divisions within the department;
  - (d) administer and coordinate all state or federal grant programs which are, or become, available for heritage, arts, and cultural development;
  - (e) administer any other programs over which the department is given administrative supervision by the governor;
  - (f) submit an annual written report to the governor and the Legislature as described in Section 9-1-208; [~~and~~]
  - (g) ensure that any training or certification [required of a public official or public employee, as those terms are defined in Section 63G-21-102](#), complies with Title 63G, Chapter 21, State Training and Certification Requirements, if the training or certification is required:

- (i) under this title;
- (ii) by the department; or
- (iii) by an agency or division within the department; and
- ~~[(g)]~~ (h) perform any other duties as provided by the Legislature.

- (3) The department may solicit and accept contributions of money, services, and

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facilities from any other sources, public or private, but may not use those contributions for publicizing the exclusive interest of the donor.

(4) Money received under Subsection (3) shall be deposited in the General Fund as restricted revenues of the department.

Section 4. Section **10-1-204** is enacted to read:

### **10-1-204. Training requirements.**

A municipality shall ensure that any training that the municipality requires **of** a municipal officer or employee ~~to complete is available in an online web-based format, unless the training includes a physical component that can only be completed in person~~ **complies with Title 63G, Chapter 21, State Training and Certification Requirements.**

Section 5. Section **11-13-225** is amended to read:

### **11-13-225. Establishment of interlocal entity personnel system.**

(1) An interlocal entity shall establish a system of personnel administration for the interlocal entity as provided in this section.

(2) The interlocal entity shall administer the system described in Subsection (1) in a manner that will effectively provide for:

(a) recruiting, selecting, and advancing employees on the basis of the employee's relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment;

(b) equitable and adequate compensation;

(c) employee training as needed to assure high-quality performance;

(d) (i) retaining an employee on the basis of the adequacy of the employee's performance; and

(ii) separation of an employee whose inadequate performance cannot be corrected;

(e) fair treatment of an applicant or employee in all aspects of personnel administration without regard to race, color, religion, sex, national origin, political affiliation, age, or disability, and with proper regard for the applicant's or employee's privacy and constitutional rights; and

(f) a formal procedure for processing the appeals and grievances of an employee without discrimination, coercion, restraint, or reprisal.

(3) An interlocal entity shall ensure that any employee training described in Subsection

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(2)(c) ~~is available in an online web-based format, unless the training includes a physical component that can only be completed in person;~~ complies with Title 63G, Chapter 21, State Training and Certification Requirements.

Section 6. Section 13-1-2 is amended to read:

### **13-1-2. Creation and functions of department -- Divisions created -- Fees --**

#### **Commerce Service Account.**

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

(b) The department shall:

(i) execute and administer state laws regulating business activities and occupations affecting the public interest[-]; and

(ii) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-21-102, complies with Title 63G, Chapter 21, State Training and Certification Requirements, if the training or certification is required:

(A) under this title;

(B) by the department; or

(C) by an agency or division within the department.

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

(a) the Division of Occupational and Professional Licensing;

(b) the Division of Real Estate;

(c) the Division of Securities;

(d) the Division of Public Utilities;

(e) the Division of Consumer Protection; and

(f) the Division of Corporations and Commercial Code.

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

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

(c) (i) There is created a restricted account within the General Fund known as the "Commerce Service Account."

(ii) The restricted account created in Subsection (3)(c)(i) consists of fees collected by



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each division and by the department.

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

(d) The department may not charge or collect a fee or expend money from the restricted account without approval by the Legislature.

Section 7. Section **17-50-108** is enacted to read:

### **17-50-108. Training requirements.**

A county shall ensure that any training that the county requires of a county officer or employee ~~{to complete is available in an online web-based format, unless the training includes a physical component that can only be completed in person}~~ complies with Title 63G, Chapter 21, State Training and Certification Requirements.

Section 8. Section **17B-1-312** is amended to read:

### **17B-1-312. Training for board members.**

(1) (a) Each member of a board of trustees of a local district shall, within one year after taking office, complete the training described in Subsection (2).

(b) For the purposes of Subsection (1)(a), a member of a board of trustees of a local district takes office each time the member is elected or appointed to a new term, including an appointment to fill a midterm vacancy in accordance with Subsection 17B-1-303(5) or (6).

(2) In conjunction with the Utah Association of Special Districts, the state auditor shall:

(a) develop a training curriculum for the members of local district boards; ~~[and]~~

(b) with the assistance of other state offices and departments the state auditor considers appropriate and at times and locations established by the state auditor, carry out the training of members of local district boards~~[-];~~ and

(c) ensure that any training required under this Subsection (2) ~~is available in an online web-based format, unless the training includes a physical component that can only be completed in person}~~ complies with Title 63G, Chapter 21, State Training and Certification Requirements.

(3) (a) A local district board of trustees may compensate each member of the board up to \$100 per day for each day of training described in Subsection (2) that the member completes.

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(b) The per diem amount authorized under Subsection (3)(a) is in addition to all other amounts of compensation and expense reimbursement authorized under this chapter.

(c) A board of trustees may not pay compensation under Subsection (3)(a) to any board member more than once per year.

(4) The state auditor shall issue a certificate of completion to each board member that completes the training described in Subsection (2).

Section 9. Section **19-1-201** is amended to read:

### **19-1-201. Powers and duties of department -- Rulemaking authority --**

#### **Committee.**

(1) The department shall:

(a) enter into cooperative agreements with the Department of Health to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered;

(b) consult with the Department of Health and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups;

(c) coordinate implementation of environmental programs to maximize efficient use of resources by developing, in consultation with local health departments, a Comprehensive Environmental Service Delivery Plan that:

(i) recognizes that the department and local health departments are the foundation for providing environmental health programs in the state;

(ii) delineates the responsibilities of the department and each local health department for the efficient delivery of environmental programs using federal, state, and local authorities, responsibilities, and resources;

(iii) provides for the delegation of authority and pass through of funding to local health departments for environmental programs, to the extent allowed by applicable law, identified in the plan, and requested by the local health department; and

(iv) is reviewed and updated annually; [~~and~~]

(d) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as follows:

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(i) for a board created in Section 19-1-106, rules regarding:

(A) board meeting attendance; and

(B) conflicts of interest procedures; and

(ii) procedural rules that govern:

(A) an adjudicative proceeding, consistent with Section 19-1-301; and

(B) a special adjudicative proceeding, consistent with Section 19-1-301.5[-]; and

(e) ensure that any training or certification required of a public official or public

employee, as those terms are defined in Section 63G-21-102, complies with Title 63G, Chapter 21, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department.

(2) The department shall establish a committee that consists of:

(a) the executive director or the executive director's designee;

(b) two representatives of the department appointed by the executive director; and

(c) three representatives of local health departments appointed by a group of all the

local health departments in the state.

(3) The committee established in Subsection (2) shall:

(a) review the allocation of environmental quality resources between the department and the local health departments;

(b) evaluate department policies that affect local health departments;

(c) consider policy changes proposed by the department or by local health departments;

(d) coordinate the implementation of environmental quality programs to maximize environmental quality resources; and

(e) review each department application for any grant from the federal government that affects a local health department before the department submits the application.

(4) The committee shall create bylaws to govern the committee's operations.

(5) The department may:

(a) investigate matters affecting the environment;

(b) investigate and control matters affecting the public health when caused by environmental hazards;

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- (c) prepare, publish, and disseminate information to inform the public concerning issues involving environmental quality;
  - (d) establish and operate programs, as authorized by this title, necessary for protection of the environment and public health from environmental hazards;
  - (e) use local health departments in the delivery of environmental health programs to the extent provided by law;
  - (f) enter into contracts with local health departments or others to meet responsibilities established under this title;
  - (g) acquire real and personal property by purchase, gift, devise, and other lawful means;
  - (h) prepare and submit to the governor a proposed budget to be included in the budget submitted by the governor to the Legislature;
  - (i) (i) establish a schedule of fees that may be assessed for actions and services of the department according to the procedures and requirements of Section 63J-1-504; and
    - (ii) in accordance with Section 63J-1-504, all fees shall be reasonable, fair, and reflect the cost of services provided;
  - (j) prescribe by rule reasonable requirements not inconsistent with law relating to environmental quality for local health departments;
  - (k) perform the administrative functions of the boards established by Section 19-1-106, including the acceptance and administration of grants from the federal government and from other sources, public or private, to carry out the board's functions;
  - (l) upon the request of any board or a division director, provide professional, technical, and clerical staff and field and laboratory services, the extent of which are limited by the funds available to the department for the staff and services; and
  - (m) establish a supplementary fee, not subject to Section 63J-1-504, to provide service that the person paying the fee agrees by contract to be charged for the service in order to efficiently utilize department resources, protect department permitting processes, address extraordinary or unanticipated stress on permitting processes, or make use of specialized expertise.
- (6) In providing service under Subsection (5)(m), the department may not provide service in a manner that impairs any other person's service from the department.

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Section 10. Section **26-1-30** is amended to read:

### **26-1-30. Powers and duties of department.**

The department shall exercise the following powers and duties, in addition to other powers and duties established in this chapter:

(1) enter into cooperative agreements with the Department of Environmental Quality to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered;

(2) consult with the Department of Environmental Quality and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups;

(3) promote and protect the health and wellness of the people within the state;

(4) establish, maintain, and enforce rules necessary or desirable to carry out the provisions and purposes of this title to promote and protect the public health or to prevent disease and illness;

(5) investigate and control the causes of epidemic, infectious, communicable, and other diseases affecting the public health;

(6) provide for the detection, reporting, prevention, and control of communicable, infectious, acute, chronic, or any other disease or health hazard which the department considers to be dangerous, important, or likely to affect the public health;

(7) collect and report information on causes of injury, sickness, death, and disability and the risk factors that contribute to the causes of injury, sickness, death, and disability within the state;

(8) collect, prepare, publish, and disseminate information to inform the public concerning the health and wellness of the population, specific hazards, and risks that may affect the health and wellness of the population and specific activities which may promote and protect the health and wellness of the population;

(9) establish and operate programs necessary or desirable for the promotion or protection of the public health and the control of disease or which may be necessary to ameliorate the major causes of injury, sickness, death, and disability in the state, except that the programs may not be established if adequate programs exist in the private sector;

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(10) establish, maintain, and enforce isolation and quarantine, and for this purpose only, exercise physical control over property and individuals as the department finds necessary for the protection of the public health;

(11) close theaters, schools, and other public places and forbid gatherings of people when necessary to protect the public health;

(12) abate nuisances when necessary to eliminate sources of filth and infectious and communicable diseases affecting the public health;

(13) make necessary sanitary and health investigations and inspections in cooperation with local health departments as to any matters affecting the public health;

(14) establish laboratory services necessary to support public health programs and medical services in the state;

(15) establish and enforce standards for laboratory services which are provided by any laboratory in the state when the purpose of the services is to protect the public health;

(16) cooperate with the Labor Commission to conduct studies of occupational health hazards and occupational diseases arising in and out of employment in industry, and make recommendations for elimination or reduction of the hazards;

(17) cooperate with the local health departments, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice Services, and the Crime Victim Reparations Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(18) investigate the causes of maternal and infant mortality;

(19) establish, maintain, and enforce a procedure requiring the blood of adult pedestrians and drivers of motor vehicles killed in highway accidents be examined for the presence and concentration of alcohol;

(20) provide the Commissioner of Public Safety with monthly statistics reflecting the results of the examinations provided for in Subsection (19) and provide safeguards so that information derived from the examinations is not used for a purpose other than the compilation of statistics authorized in this Subsection (20);

(21) establish qualifications for individuals permitted to draw blood pursuant to Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), or 72-10-502(5)(a)(vi), and to issue permits to individuals it finds qualified, which permits may be terminated or revoked by the

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department;

(22) establish a uniform public health program throughout the state which includes continuous service, employment of qualified employees, and a basic program of disease control, vital and health statistics, sanitation, public health nursing, and other preventive health programs necessary or desirable for the protection of public health;

(23) adopt rules and enforce minimum sanitary standards for the operation and maintenance of:

- (a) orphanages;
- (b) boarding homes;
- (c) summer camps for children;
- (d) lodging houses;
- (e) hotels;
- (f) restaurants and all other places where food is handled for commercial purposes, sold, or served to the public;
- (g) tourist and trailer camps;
- (h) service stations;
- (i) public conveyances and stations;
- (j) public and private schools;
- (k) factories;
- (l) private sanatoria;
- (m) barber shops;
- (n) beauty shops;
- (o) physician offices;
- (p) dentist offices;
- (q) workshops;
- (r) industrial, labor, or construction camps;
- (s) recreational resorts and camps;
- (t) swimming pools, public baths, and bathing beaches;
- (u) state, county, or municipal institutions, including hospitals and other buildings, centers, and places used for public gatherings; and
- (v) any other facilities in public buildings or on public grounds;

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- (24) conduct health planning for the state;
- (25) monitor the costs of health care in the state and foster price competition in the health care delivery system;
- (26) adopt rules for the licensure of health facilities within the state pursuant to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act;
- (27) license the provision of child care;
- (28) accept contributions to and administer the funds contained in the Organ Donation Contribution Fund created in Section 26-18b-101;
- (29) serve as the collecting agent, on behalf of the state, for the nursing care facility assessment fee imposed under Title 26, Chapter 35a, Nursing Care Facility Assessment Act, and adopt rules for the enforcement and administration of the nursing facility assessment consistent with the provisions of Title 26, Chapter 35a, Nursing Care Facility Assessment Act;
- (30) establish methods or measures for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals they serve; [~~and~~]
- (31) (a) designate Alzheimer's disease and related dementia as a public health issue and, within budgetary limitations, implement a state plan for Alzheimer's disease and related dementia by incorporating the plan into the department's strategic planning and budgetary process; and
  - (b) coordinate with other state agencies and other organizations to implement the state plan for Alzheimer's disease and related dementia[~~;~~]; and
- (32) ensure that any training or certification **required of a public official or public employee, as those terms are defined in Section 63G-21-102,** complies with Title 63G, Chapter 21, State Training and Certification Requirements, if the training or certification is required:
  - (a) under this title;
  - (b) by the department; or
  - (c) by an agency or division within the department.

Section 11. Section **31A-2-201** is amended to read:

### **31A-2-201. General duties and powers.**

- (1) The commissioner shall administer and enforce this title.
- (2) The commissioner has all powers specifically granted, and all further powers that



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are reasonable and necessary to enable the commissioner to perform the duties imposed by this title.

(3) (a) The commissioner may make rules to implement the provisions of this title according to the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) In addition to the notice requirements of Section 63G-3-301, the commissioner shall provide notice under Section 31A-2-303 of hearings concerning insurance department rules.

(4) (a) The commissioner shall issue prohibitory, mandatory, and other orders as necessary to secure compliance with this title. An order by the commissioner is not effective unless the order:

- (i) is in writing; and
- (ii) is signed by the commissioner or under the commissioner's authority.

(b) On request of any person who would be affected by an order under Subsection (4)(a), the commissioner may issue a declaratory order to clarify the person's rights or duties.

(5) (a) The commissioner may hold informal adjudicative proceedings and public meetings, for the purpose of:

- (i) investigation;
- (ii) ascertainment of public sentiment; or
- (iii) informing the public.

(b) An effective rule or order may not result from informal hearings and meetings unless the requirement of a hearing under this section is satisfied.

(6) The commissioner shall inquire into violations of this title and may conduct any examinations and investigations of insurance matters, in addition to examinations and investigations expressly authorized, that the commissioner considers proper to determine:

- (a) whether or not any person has violated any provision of this title; or
- (b) to secure information useful in the lawful administration of this title.

(7) The commissioner shall ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-21-102, complies with Title 63G, Chapter 21, State Training and Certification Requirements, if the training or certification is required:

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(a) under this title;

(b) by the department; or

(c) by an agency or division within the department.

Section 12. Section **32B-2-207** is amended to read:

### **32B-2-207. Department employees -- Requirements.**

(1) "Upper management" means the director, a deputy director, or other Schedule AD, AR, or AS employee of the department, as defined in Section 67-19-15, except for the director of internal audits and auditors hired by the director of internal audits under Section 32B-2-302.5.

(2) (a) Subject to this title, including the requirements of Chapter 1, Part 3, Qualifications and Background, the director may prescribe the qualifications of a department employee.

(b) The director may hire an employee who is upper management only with the approval of four commissioners voting in an open meeting.

(c) Except as provided in Section 32B-1-303, the executive director may dismiss an employee who is upper management after consultation with the chair of the commission.

(3) (a) A person who seeks employment with the department shall file with the department an application under oath or affirmation in a form prescribed by the commission.

(b) Upon receiving an application, the department shall determine whether the individual is:

(i) of good moral character; and

(ii) qualified for the position sought.

(c) The department shall select an individual for employment or advancement with the department in accordance with Title 67, Chapter 19, Utah State Personnel Management Act.

(4) The following are not considered a department employee:

(a) a package agent;

(b) a licensee;

(c) a staff member of a package agent; or

(d) staff of a licensee.

(5) The department may not employ a minor to:

(a) work in:

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- (i) a state store; or
- (ii) a department warehouse; or
- (b) engage in an activity involving the handling of an alcoholic product.

(6) The department shall ensure that any training or certification [required of a public official or public employee, as those terms are defined in Section 63G-21-102](#), complies with Title 63G, Chapter 21, State Training and Certification Requirements, if the training or certification is required:

- (a) under this title;
- (b) by the department; or
- (c) by an agency or division within the department.

Section 13. Section **34A-6-109** is amended to read:

### **34A-6-109. Educational and training programs.**

(1) The division, after consultation with other appropriate agencies, shall conduct, directly or by assistance:

- (a) educational programs to provide an adequate supply of qualified personnel to carry out the purpose of this chapter; and
- (b) informational programs on the importance of adequate safety and health equipment.

(2) (a) The division is authorized to conduct, directly or by assistance, training for personnel engaged in work related to its responsibilities under this chapter.

(b) The division shall ensure that any training described in Subsection (2)(a) ~~is available in an online web-based format, unless the training includes a physical component that can only be completed in person;~~ [complies with Title 63G, Chapter 21, State Training and Certification Requirements](#).

(3) The division shall:

(a) establish and supervise programs for the education and training of employers and employees for recognition, avoidance, and prevention of unsafe or unhealthful working conditions;

(b) consult and advise employers and employees about effective means for prevention of any work-related injury or occupational disease; and

(c) provide safety and health workplace surveys.

Section 14. Section **35A-1-104** is amended to read:

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### 35A-1-104. Department authority.

Within all other authority or responsibility granted to it by law, the department may:

- (1) adopt rules when authorized by this title, in accordance with the procedures of Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (2) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;
- (3) conduct adjudicative proceedings in accordance with the procedures of Title 63G, Chapter 4, Administrative Procedures Act;
- (4) establish eligibility standards for its programs, not inconsistent with state or federal law or regulations;
- (5) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who is not eligible;
- (6) administer oaths, certify to official acts, issue subpoenas to compel witnesses and the production of books, accounts, documents, and other records necessary as evidence;
- (7) acquire, manage, and dispose of any real or personal property needed or owned by the department, not inconsistent with state law;
- (8) receive gifts, grants, devises, and donations or their proceeds, crediting the program designated by the donor, and using the gift, grant, devise, or donation for the purposes requested by the donor, as long as the request conforms to state and federal policy;
- (9) accept and employ volunteer labor or services;
- (10) reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;
- (11) carry out the responsibility assigned by the State Workforce Services Plan developed by the State Workforce Development Board;
- (12) (a) provide training and educational opportunities for [its] the department's staff; and  
(b) ensure that any training or educational opportunity described in Subsection (12)(a) complies with Title 63G, Chapter 21, State Training and Certification Requirements;
- (13) examine and audit the expenditures of any public funds provided to a local authority, agency, or organization that contracts with or receives funds from those authorities or agencies;

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(14) accept and administer grants from the federal government and from other sources, public or private;

(15) employ and determine the compensation of clerical, legal, technical, investigative, and other employees necessary to carry out its policymaking, regulatory, and enforcement powers, rights, duties, and responsibilities under this title;

(16) establish and conduct free employment agencies, and bring together employers seeking employees and working people seeking employment, and make known the opportunities for employment in this state;

(17) collect, collate, and publish statistical and other information relating to employees, employers, employments, and places of employment, and other statistics as it considers proper;

(18) encourage the expansion and use of apprenticeship programs meeting state or federal standards for apprenticeship programs;

(19) develop processes to ensure that the department responds to the full range of employee and employer clients;

(20) carry out the responsibilities assigned to it by statute; and

(21) administer the Safety Net Initiative as described in Section 35A-3-802.

Section 15. Section **41-6a-303** is amended to read:

**41-6a-303. Definition of reduced speed school zone -- Operation of warning lights -- School crossing guard requirements -- Responsibility provisions -- Rulemaking authority.**

(1) As used in this section "reduced speed school zone" means a designated length of a highway extending from a school zone speed limit sign with warning lights operating to an end school zone sign.

(2) The Department of Transportation for state highways and local highway authorities for highways under their jurisdiction:

(a) shall establish reduced speed school zones at elementary schools after written assurance by a local highway authority that the local highway authority complies with Subsections (3) and (4); and

(b) may establish reduced speed school zones for secondary schools at the request of the local highway authority.

(3) For all reduced speed school zones on highways, including state highways within

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the jurisdictional boundaries of a local highway authority, the local highway authority shall:

- (a) (i) provide shuttle service across highways for school children; or
- (ii) provide, train, and supervise school crossing guards in accordance with this

section;

- (b) provide for the:

- (i) operation of reduced speed school zones, including providing power to warning lights and turning on and off the warning lights as required under Subsections (4) and (5); and

- (ii) maintenance of reduced speed school zones except on state highways as provided in Section 41-6a-302; and

- (c) notify the Department of Transportation of reduced speed school zones on state highways that are in need of maintenance.

(4) While children are going to or leaving school during opening and closing hours all reduced speed school zones shall have:

- (a) the warning lights operating on each school zone speed limit sign; and

- (b) a school crossing guard present if the reduced speed school zone is for an elementary school.

(5) The warning lights on a school zone speed limit sign may not be operating except as provided under Subsection (4).

(6) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Transportation shall make rules establishing criteria and specifications for the:

- (i) establishment, location, and operation of school crosswalks, school zones, and reduced speed school zones;

- (ii) training, use, and supervision of school crossing guards at elementary schools and secondary schools; and

- (iii) content and implementation of child access routing plans under Section 53A-3-402.

(b) If a school crosswalk is established at a signalized intersection in accordance with the requirements of this section, a local highway authority may reduce the speed limit at the signalized intersection to 20 miles per hour for a highway under its jurisdiction.

- (7) Each local highway authority shall pay for providing, training, and supervising

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school crossing guards in accordance with this section.

(8) ~~Each local highway authority shall ensure that any training described in this section is available in an online web-based format, unless the training includes a physical component that can only be completed in person~~ complies with Title 63G, Chapter 21, State Training and Certification Requirements.

Section 16. Section **52-4-104** is amended to read:

### **52-4-104. Training.**

(1) The presiding officer of the public body shall ensure that the members of the public body are provided with annual training on the requirements of this chapter.

(2) ~~The presiding officer shall ensure that any training described in Subsection (1) is available in an online web-based format, unless the training includes a physical component that can only be completed in person~~ complies with Title 63G, Chapter 21, State Training and Certification Requirements.

Section 17. Section **53-1-106** is amended to read:

### **53-1-106. Department duties -- Powers.**

(1) In addition to the responsibilities contained in this title, the department shall:

(a) make rules and perform the functions specified in Title 41, Chapter 6a, Traffic Code, including:

(i) setting performance standards for towing companies to be used by the department, as required by Section 41-6a-1406; and

(ii) advising the Department of Transportation regarding the safe design and operation of school buses, as required by Section 41-6a-1304;

(b) make rules to establish and clarify standards pertaining to the curriculum and teaching methods of a motor vehicle accident prevention course under Section 31A-19a-211;

(c) aid in enforcement efforts to combat drug trafficking;

(d) meet with the Department of Technology Services to formulate contracts, establish priorities, and develop funding mechanisms for dispatch and telecommunications operations;

(e) provide assistance to the Crime Victim Reparations Board and the Utah Office for Victims of Crime in conducting research or monitoring victims' programs, as required by Section 63M-7-505;

(f) develop sexual assault exam protocol standards in conjunction with the Utah

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Hospital Association;

(g) engage in emergency planning activities, including preparation of policy and procedure and rulemaking necessary for implementation of the federal Emergency Planning and Community Right to Know Act of 1986, as required by Section 53-2a-702; ~~and~~

(h) implement the provisions of Section 53-2a-402, the Emergency Management Assistance Compact[-]; and

(i) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-21-102, complies with Title 63G, Chapter 21, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department.

(2) (a) The department may establish a schedule of fees as required or allowed in this title for services provided by the department.

(b) The fees shall be established in accordance with Section 63J-1-504.

(3) The department may establish or contract for the establishment of an Organ Procurement Donor Registry in accordance with Section 26-28-120.

Section 18. Section 53A-1-401 is amended to read:

**53A-1-401. Powers of State Board of Education -- Adoption of rules --**

**Enforcement -- Attorney.**

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Education entity" means:

(i) an entity that receives a distribution of state funds through a grant program managed by the board under this title;

(ii) an entity that enters into a contract with the board to provide an educational good or service;

(iii) a school district; or

(iv) a charter school.

(c) "Educational good or service" means a good or service that is required or regulated under:



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- (i) this title; or
- (ii) a rule authorized under this title.
- (d) "Local education agency" or "LEA" means:

- (i) a school district;
- (ii) a charter school; or
- (iii) the Utah Schools for the Deaf and the Blind.

(2) (a) The State Board of Education has general control and supervision of the state's public education system.

(b) "General control and supervision" as used in Utah Constitution, Article X, Section 3, means directed to the whole system.

(3) The board may not govern, manage, or operate school districts, institutions, and programs, unless granted that authority by statute.

(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may make rules to execute the board's duties and responsibilities under the Utah Constitution and state law.

(b) The board may delegate the board's statutory duties and responsibilities to board employees.

(5) (a) The board may sell any interest it holds in real property upon a finding by the board that the property interest is surplus.

(b) The board may use the money it receives from a sale under Subsection (5)(a) for capital improvements, equipment, or materials, but not for personnel or ongoing costs.

(c) If the property interest under Subsection (5)(a) was held for the benefit of an agency or institution administered by the board, the money may only be used for purposes related to the agency or institution.

(d) The board shall advise the Legislature of any sale under Subsection (5)(a) and related matters during the next following session of the Legislature.

(6) The board shall develop policies and procedures related to federal educational programs in accordance with Title 53A, Chapter 1, Part 9, Implementing Federal or National Education Programs Act.

(7) On or before December 31, 2010, the State Board of Education shall review mandates or requirements provided for in board rule to determine whether certain mandates or

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requirements could be waived to remove funding pressures on public schools on a temporary basis.

(8) (a) If an education entity violates this title or rules authorized under this title, the board may, in accordance with the rules described in Subsection (8)(c):

(i) require the education entity to enter into a corrective action agreement with the board;

(ii) temporarily or permanently withhold state funds from the education entity;

(iii) require the education entity to pay a penalty; or

(iv) require the education entity to reimburse specified state funds to the board.

(b) Except for temporarily withheld funds, if the board collects state funds under Subsection (8)(a), the board shall pay the funds into the Uniform School Fund.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules:

(i) that require notice and an opportunity to be heard for an education entity affected by a board action described in Subsection (8)(a); and

(ii) to administer this Subsection (8).

(d) The board shall report criminal conduct of an education entity to the district attorney of the county where the education entity is located.

(9) The board may audit the use of state funds by an education entity that receives those state funds as a distribution from the board.

(10) The board may require, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that if an LEA contracts with a third party contractor for an educational good or service, the LEA shall require in the contract that the third party contractor shall provide, upon request of the LEA, information necessary for the LEA to verify that the educational good or service complies with:

(a) this title; and

(b) board rule authorized under this title.

(11) (a) The board may appoint an attorney to provide legal advice to the board and coordinate legal affairs for the board and the board's employees.

(b) An attorney described in Subsection (11)(a) shall cooperate with the Office of the Attorney General.

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(c) An attorney described in Subsection (11)(a) may not:

(i) conduct litigation;

(ii) settle claims covered by the Risk Management Fund created in Section 63A-4-201;

or

(iii) issue formal legal opinions.

~~{Section 18. Section 53A-1-603 is amended to read:~~

~~———— 53A-1-603. Duties of State Board of Education:~~

~~———— (1) The State Board of Education shall:~~

~~———— (a) require a school district or charter school to implement the Utah Performance Assessment System for Students;~~

~~———— (b) require the state superintendent of public instruction to submit and recommend criterion-referenced achievement tests or online computer adaptive tests, college readiness assessments, an online writing assessment for grades 5 and 8, and a test for students in grade 3 to measure reading grade level to the board for approval and adoption and distribution to a school district or charter school by the state superintendent;~~

~~———— (c) develop an assessment method to uniformly measure statewide performance, school district performance, and school performance of students in grades 3 through 12 in mastering basic academic subjects; and~~

~~———— (d) provide for the state to participate in the National Assessment of Educational Progress state-by-state comparison testing program.~~

~~———— (2) Except as provided in Subsection (9) and Subsection 53A-1-611(4), under U-PASS, the State Board of Education shall annually require a school district or charter school to administer:~~

~~———— (a) as determined by the State Board of Education, statewide criterion-referenced tests or online computer adaptive tests in grades 3 through 12 and courses in basic academic subjects of the core standards for Utah public schools;~~

~~———— (b) an online writing assessment to all students in grades 5 and 8;~~

~~———— (c) college readiness assessments as detailed in Section 53A-1-611; and~~

~~———— (d) a test to all students in grade 3 to measure reading grade level.~~

~~———— (3) The State Board of Education shall annually require a school district or charter school to administer a computer adaptive assessment system that is:~~

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- ~~—— (a) adopted by the State Board of Education; and~~
- ~~—— (b) aligned to the core standards for Utah public schools;~~
- ~~—— (4)(12) The board shall adopt rules for the conduct and administration of U-PASS to include the following:~~
  - ~~—— (a) the computation of student performance based on information that is disaggregated with respect to race, ethnicity, gender, limited English proficiency, and those students who qualify for free or reduced price school lunch;~~
  - ~~—— (b) security features to maintain the integrity of the system, which may include statewide uniform testing dates, multiple test forms, and test administration protocols;~~
  - ~~—— (c) the exemption of student test scores, by exemption category, such as limited English proficiency, mobility, and students with disabilities, with the percent or number of student test scores exempted being publicly reported at a district level;~~
  - ~~—— (d) compiling of criterion-referenced, online computer adaptive, and online writing test scores and test score averages at the classroom level to allow for:~~
    - ~~—— (i) an annual review of those scores by parents of students and professional and other appropriate staff at the classroom level at the earliest point in time;~~
    - ~~—— (ii) the assessment of year-to-year student progress in specific classes, courses, and subjects; and~~
    - ~~—— (iii) a teacher to review, prior to the beginning of a new school year, test scores from the previous school year of students who have been assigned to the teacher's class for the new school year;~~
  - ~~—— (e) allowing a school district or charter school to have its tests administered and scored electronically to accelerate the review of test scores and their usefulness to parents and educators under Subsection (4)(d), without violating the integrity of U-PASS; and~~
  - ~~—— (f) providing that scores on the tests and assessments required under Subsection (2)(a) and Subsection (3) may not be considered in determining:~~
    - ~~—— (i) a student's academic grade for the appropriate course; or~~
    - ~~—— (ii) whether a student may advance to the next grade level;~~
- ~~—— (5) (a) A school district or charter school may administer an online writing assessment to students in grade 11.~~
- ~~—— (b) The State Board of Education may award a grant to a school district or charter~~

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~~school to pay for an online writing assessment and instruction program that may be used to assess the writing of students in grade 11.~~

~~—— (6) The State Board of Education shall make rules:~~

~~—— (a) establishing procedures for applying for and awarding money for computer adaptive tests;~~

~~—— (b) specifying how money for computer adaptive tests shall be allocated among school districts and charter schools that qualify to receive the money; and~~

~~—— (c) requiring reporting of the expenditure of money awarded for computer adaptive testing and evidence that the money was used to implement computer adaptive testing.~~

~~—— (7) The State Board of Education shall ensure that computer adaptive tests are administered in compliance with the requirements of Chapter 1, Part 14, Student Data Protection Act, and Chapter 13, Part 3, Utah Family Educational Rights and Privacy Act.~~

~~—— (8) (a) The State Board of Education shall establish a committee consisting of 15 parents of Utah public education students to review all computer adaptive test questions.~~

~~—— (b) The committee established in Subsection (8)(a) shall include the following parent members:~~

~~—— (i) five members appointed by the chair of the State Board of Education;~~

~~—— (ii) five members appointed by the speaker of the House of Representatives; and~~

~~—— (iii) five members appointed by the president of the Senate.~~

~~—— (c) The State Board of Education shall provide staff support to the parent committee.~~

~~—— (d) The term of office of each member appointed in Subsection (8)(b) is four years.~~

~~—— (e) The chair of the State Board of Education, the speaker of the House of Representatives, and the president of the Senate shall adjust the length of terms to stagger the terms of committee members so that approximately 1/2 of the committee members are appointed every two years.~~

~~—— (f) No member may receive compensation or benefits for the member's service on the committee.~~

~~—— (9) Beginning with the 2016-17 school year, for all students in grade 11, a school district or charter school may waive the obligation to administer a test required under Subsection (2)(a).~~

~~—— (10) (a) School districts and charter schools shall require each licensed employee to~~

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~~complete two hours of professional development on youth suicide prevention within their license cycle in accordance with Section 53A-6-104.~~

~~(b) The State Board of Education shall develop or adopt sample materials to be used by a school district or charter school for professional development training on youth suicide prevention.~~

~~(c) The training required by this Subsection (10) shall be incorporated into professional development training required by rule in accordance with Section 53A-6-104.~~

~~(11) The State Board of Education shall ensure that any training or certification that an employee of the public education system is required to complete under this title or by rule is available in an online web-based format, unless the training or certification includes a physical component that can only be completed in person.~~

ensure that any training or certification that an employee of the public education system is required to complete under this title or by rule complies with Title 63G, Chapter 21, State Training and Certification Requirements.

Section 19. Section **53B-1-103** is amended to read:

### **53B-1-103. Establishment of State Board of Regents -- Powers and authority.**

(1) There is established a State Board of Regents.

(2) (a) Except as provided in Subsection (2)(b), the board is vested with the control, management, and supervision of the institutions of higher education designated in Section 53B-1-102 in a manner consistent with the policy and purpose of this title and the specific powers and responsibilities granted to it.

(b) The board may only exercise powers relating to the Utah College of Applied Technology and applied technology colleges within the Utah College of Applied Technology that are specifically provided in this title.

(c) The board shall coordinate and support articulation agreements between the Utah College of Applied Technology or applied technology colleges within the Utah College of Applied Technology and other institutions of higher education.

(d) The board shall prepare and submit an annual report detailing its progress and recommendations on career and technical education issues to the governor and to the Legislature's Education Interim Committee by October 31 of each year, which shall include information detailing:

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(i) how the career and technical education needs of secondary students are being met by institutions of higher education other than applied technology colleges within the Utah College of Applied Technology, including what access secondary students have to programs offered by Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern;

(ii) how the emphasis on high demand, high wage, and high skill jobs in business and industry is being provided;

(iii) performance outcomes, including:

(A) entered employment;

(B) job retention; and

(C) earnings; and

(iv) student tuition and fees.

(e) Except for the Utah College of Applied Technology, the board may modify the name of an institution under its control and management, as designated in Section 53B-1-102, to reflect the role and general course of study of the institution.

(f) The board may not conduct a feasibility study or perform another act relating to merging any of the following institutions with another institution of higher education:

(i) Bridgerland Applied Technology College;

(ii) Ogden-Weber Applied Technology College;

(iii) Davis Applied Technology College;

(iv) Tooele Applied Technology College;

(v) Mountainland Applied Technology College;

(vi) Uintah Basin Applied Technology College;

(vii) Southwest Applied Technology College; and

(viii) Dixie Applied Technology College.

(3) This section does not affect the power and authority vested in the State Board of Education to apply for, accept, and manage federal appropriations for the establishment and maintenance of career and technical education.

(4) The board shall conduct a study regarding the feasibility of providing a veterans' walk-in center or services at each state institution of higher education. The study shall include:

(a) an implementation plan for providing a walk-in center or services at each institution

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of higher education;

(b) criteria, based upon the size of the institution, to determine whether the institution should be required to provide a walk-in center or services;

(c) responsibilities of the walk-in center or services;

(d) a notification process about the walk-in center or services to veterans upon their application for admission;

(e) the possibility of staffing a veterans walk-in center or services with veterans, including through work-study positions to be filled by veterans;

(f) annual reports from each walk-in center and services to the board which includes summary information of veterans served; and

(g) funding requirements for a veterans walk-in center and services.

(5) Presentation of the study, including the implementation plan with funding and other recommendations, shall be made to a legislative committee, commission, or task force upon request no later than the October 2014 interim meeting.

(6) The board shall ensure that any training or certification that an employee of the higher education system is required to complete under this title or by board rule ~~is available in an online web-based format, unless the training or certification includes a physical component that can only be completed in person~~ complies with Title 63G, Chapter 21, State Training and Certification Requirements.

Section 20. Section **53D-1-303** is amended to read:

### **53D-1-303. Board authority and duties.**

(1) The board has broad policymaking authority over the office and the trust fund.

(2) (a) The board shall establish policies for the management of:

(i) the office, including:

(A) an investment management code of conduct and associated compliance policy;

(B) a policy for the strategic allocation of trust fund assets;

(C) a soft dollar policy; and

(D) a policy articulating the board's investment philosophy for trust fund assets; and

(ii) the trust fund.

(b) Policies that the board adopts shall:

(i) be consistent with the enabling act, the Utah Constitution, and other applicable state



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law;

(ii) reflect undivided loyalty to the beneficiaries consistent with fiduciary duties;

(iii) be designed to prudently optimize trust fund returns and increase the value of the trust fund, consistent with the balancing of short-term and long-term interests, so that the fiduciary duty of intergenerational equity is met;

(iv) be designed to maintain the integrity of the trust fund and prevent the misapplication of money in the trust fund;

(v) enable the board to oversee the activities of the office; and

(vi) otherwise be in accordance with standard trust principles as provided by state law.

(3) The board shall:

(a) establish a conflict of interest policy for the office and board members;

(b) establish policies governing the evaluation, selection, and monitoring of independent custodial arrangements;

(c) ensure that the office is managed according to law;

(d) establish bylaws to govern the board;

(e) establish the compensation of the director;

(f) annually examine the compensation and performance of the director as part of the board's budget review process;

(g) annually report the director's compensation to the Legislature; and

(h) (i) adopt policies to provide for annual training of board members regarding their duties and responsibilities[-]; and

(ii) ensure that any training described in Subsection (3)(h)(i) ~~is available in an online web-based format, unless the training includes a physical component that can only be completed in person~~ complies with Title 63G, Chapter 21, State Training and Certification Requirements.

(4) The board may:

(a) after conferring with the director:

(i) hire one or more consultants to advise the board, director, or office on issues affecting the management of the trust fund; and

(ii) pay compensation to any consultant hired under Subsection (4)(a)(i), subject to budgetary constraints; and

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(b) submit to the director a written question or set of questions concerning policies and practices affecting the management of the trust fund.

Section 21. Section **59-2-702** is amended to read:

**59-2-702. Education and training of appraisers -- Continuing education for appraisers and county assessors.**

(1) The commission shall conduct, at its own expense, a program of education and training of appraisal personnel preparatory to the examination of applicants for appraisers' and assessors' certification or licensure required by Section 59-2-701.

(2) To ensure that the assessment of property will be performed in a professional manner by competent personnel, meeting specified professional qualifications, the commission shall conduct a continuing program of in-service education and training for county assessors and property appraisers in the principles and practices of assessment and appraisal of property. For this purpose the commission may cooperate with educational institutions, local, regional, state, or national assessors' organizations, and with other appropriate professional organizations. The commission may reimburse the participation expenses incurred by assessors and other employees of the state or its subdivisions whose attendance at in-service training programs is approved by the commission.

(3) The commission shall ensure that any training or continuing education required under this section ~~is available in an online web-based format, unless the training includes a physical component that can only be completed in person;~~ ~~complies with Title 63G, Chapter 21, State Training and Certification Requirements.~~

Section 22. Section **59-2-1001** is amended to read:

**59-2-1001. County board of equalization -- Public hearings -- Hearing officers -- Notice of decision -- Rulemaking.**

(1) The county legislative body is the county board of equalization and the county auditor is the clerk of the county board of equalization.

(2) The county board of equalization shall adjust and equalize the valuation and assessment of the real and personal property within the county, subject to regulation and control by the commission, as prescribed by law. The county board of equalization shall meet and hold public hearings each year to examine the assessment roll and equalize the assessment of property in the county, including the assessment for general taxes of all taxing entities

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located in the county.

(3) (a) Except as provided in Subsection (3)(d), a county board of equalization may:

(i) appoint an appraiser licensed in accordance with Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, as a hearing officer for the purpose of examining an applicant or a witness; or

(ii) appoint an individual who is not licensed in accordance with Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, as a hearing officer for the purpose of examining an applicant or a witness if the county board of equalization determines that the individual has competency relevant to the work of a hearing officer, including competency in:

(A) real estate;

(B) finance;

(C) economics;

(D) public administration; or

(E) law.

(b) Except as provided in Subsection (3)(d), beginning on January 1, 2014, a county board of equalization may only allow an individual to serve as a hearing officer for the purposes of examining an applicant or a witness if the individual has completed a course the commission:

(i) develops in accordance with Subsection (3)(c)(i); or

(ii) approves in accordance with Subsection (3)(c)(ii).

(c) (i) On or before January 1, 2014, the commission shall develop a hearing officer training course that includes training in property valuation and administrative law.

(ii) In addition to the course the commission develops in accordance with Subsection (3)(c)(i), the commission may approve a hearing officer training course provided by a county or a private entity if the course includes training in property valuation and administrative law.

(iii) The commission shall ensure that any training described in this Subsection (3)(c) ~~is available in an online web-based format, unless the training includes a physical component that can only be completed in person~~ complies with Title 63G, Chapter 21, State Training and Certification Requirements.

(d) A county board of equalization may not appoint a person employed by an assessor's office as a hearing officer.

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(e) A hearing officer shall transmit the hearing officer's findings to the board, where a quorum shall be required for final action upon any application for exemption, deferral, reduction, or abatement.

(4) The clerk of the board of equalization shall notify the taxpayer, in writing, of any decision of the board. The decision shall include any adjustment in the amount of taxes due on the property resulting from a change in the taxable value and shall be considered the corrected tax notice.

(5) During the session of the board, the assessor or any deputy whose testimony is needed shall be present and may make any statement or introduce and examine witnesses on questions before the board.

(6) The county board of equalization may make and enforce any rule which is consistent with statute or commission rule and necessary for the government of the board, the preservation of order, and the transaction of business.

Section 23. Section **62A-1-111** is amended to read:

### **62A-1-111. Department authority.**

The department may, in addition to all other authority and responsibility granted to it by law:

(1) adopt rules, not inconsistent with law, as the department may consider necessary or desirable for providing social services to the people of this state;

(2) establish and manage client trust accounts in the department's institutions and community programs, at the request of the client or the client's legal guardian or representative, or in accordance with federal law;

(3) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(4) conduct adjudicative proceedings for clients and providers in accordance with the procedures of Title 63G, Chapter 4, Administrative Procedures Act;

(5) establish eligibility standards for its programs, not inconsistent with state or federal law or regulations;

(6) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who was not eligible;

(7) set and collect fees for its services;

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(8) license agencies, facilities, and programs, except as otherwise allowed, prohibited, or limited by law;

(9) acquire, manage, and dispose of any real or personal property needed or owned by the department, not inconsistent with state law;

(10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or the proceeds thereof, may be credited to the program designated by the donor, and may be used for the purposes requested by the donor, as long as the request conforms to state and federal policy; all donated funds shall be considered private, nonlapsing funds and may be invested under guidelines established by the state treasurer;

(11) accept and employ volunteer labor or services; the department is authorized to reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;

(12) carry out the responsibility assigned in the workforce services plan by the State Workforce Development Board;

(13) carry out the responsibility assigned by Section 35A-8-602 with respect to coordination of services for the homeless;

(14) carry out the responsibility assigned by Section 62A-5a-105 with respect to coordination of services for students with a disability;

(15) provide training and educational opportunities for its staff;

(16) collect child support payments and any other money due to the department;

(17) apply the provisions of Title 78B, Chapter 12, Utah Child Support Act, to parents whose child lives out of the home in a department licensed or certified setting;

(18) establish policy and procedures, within appropriations authorized by the Legislature, in cases where the department is given custody of a minor by the juvenile court pursuant to Section 78A-6-117 or ordered to prepare an attainment plan for a minor found not competent to proceed pursuant to Section 78A-6-1301; any policy and procedures shall include:

(a) designation of interagency teams for each juvenile court district in the state;

(b) delineation of assessment criteria and procedures;

(c) minimum requirements, and timeframes, for the development and implementation of a collaborative service plan for each minor placed in department custody; and

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(d) provisions for submittal of the plan and periodic progress reports to the court;

(19) carry out the responsibilities assigned to it by statute;

(20) examine and audit the expenditures of any public funds provided to local

substance abuse authorities, local mental health authorities, local area agencies on aging, and any person, agency, or organization that contracts with or receives funds from those authorities or agencies. Those local authorities, area agencies, and any person or entity that contracts with or receives funds from those authorities or area agencies, shall provide the department with any information the department considers necessary. The department is further authorized to issue directives resulting from any examination or audit to local authorities, area agencies, and persons or entities that contract with or receive funds from those authorities with regard to any public funds. If the department determines that it is necessary to withhold funds from a local mental health authority or local substance abuse authority based on failure to comply with state or federal law, policy, or contract provisions, it may take steps necessary to ensure continuity of services. For purposes of this Subsection (20) "public funds" means the same as that term is defined in Section 62A-15-102;

(21) pursuant to Subsection 62A-2-106(1)(d), accredit one or more agencies and persons to provide intercountry adoption services; ~~and~~

(22) within appropriations authorized by the Legislature, promote and develop a system of care, as defined in Section 62A-1-104, within the department and with contractors that provide services to the department or any of the department's divisions~~[-];~~ and

(23) ensure that any training or certification **required of a public official or public employee, as those terms are defined in Section 63G-21-102,** complies with Title 63G, Chapter 21, State Training and Certification Requirements, if the training or certification is required:

(a) under this title;

(b) by the department; or

(c) by an agency or division within the department.

Section 24. Section **63A-1-117** is enacted to read:

### **63A-1-117. Training and certification requirements.**

The department shall ensure that any training or certification **required of a public official or public employee, as those terms are defined in Section 63G-21-102,** complies with Title 63G, Chapter 21, State Training and Certification Requirements, if the training or

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certification is required:

- (1) under this title;
- (2) by the department; or
- (3) by an agency or division within the department.

Section 25. Section **63F-1-104** is amended to read:

### **63F-1-104. Duties.**

The department shall:

(1) lead state executive branch agency efforts to reengineer the state's information technology architecture with the goal of coordinating central and individual agency information technology in a manner that:

- (a) ensures compliance with the executive branch agency strategic plan; and
- (b) ensures that cost-effective, efficient information and communication systems and

resources are being used by agencies to:

- (i) reduce data, hardware, and software redundancy;
- (ii) improve system interoperability and data accessibility between agencies; and
- (iii) meet the agency's and user's business and service needs;

(2) coordinate an executive branch strategic plan for all agencies;

(3) each year, in coordination with the governor's office, convene a group of public and private sector information technology and data security experts to identify best practices from agencies and other public and private sector entities, including best practices for data and information technology system security standards;

(4) develop and implement processes to replicate information technology best practices and standards identified in Subsection (3), throughout the executive branch;

(5) by July 1, 2015, and at least once every two years thereafter:

(a) evaluate the adequacy of the department's and the executive branch agencies' data and information technology system security standards through an independent third party assessment; and

(b) communicate the results of the independent third party assessment to the appropriate executive branch agencies and to the president of the Senate and the speaker of the House of Representatives;

(6) oversee the expanded use and implementation of project and contract management

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principles as they relate to information technology projects within the executive branch;

(7) serve as general contractor between the state's information technology users and private sector providers of information technology products and services;

(8) work toward building stronger partnering relationships with providers;

(9) develop service level agreements with executive branch departments and agencies to ensure quality products and services are delivered on schedule and within budget;

(10) develop standards for application development including a standard methodology and cost-benefit analysis that all agencies shall utilize for application development activities;

(11) determine and implement statewide efforts to standardize data elements and determine data ownership assignments among executive branch agencies;

(12) develop systems and methodologies to review, evaluate, and prioritize existing information technology projects within the executive branch and report to the governor and the Public Utilities, Energy, and Technology Interim Committee on a semiannual basis regarding the status of information technology projects; [~~and~~]

(13) assist the Governor's Office of Management and Budget with the development of information technology budgets for agencies[~~;~~]; and

(14) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-21-102, complies with Title 63G, Chapter 21, State Training and Certification Requirements, if the training or certification is required:

(a) under this title;

(b) by the department; or

(c) by an agency or division within the department.

Section 26. Section **63G-6a-303** is amended to read:

### **63G-6a-303. Duties and authority of chief procurement officer.**

(1) The chief procurement officer:

(a) is the director of the division;

(b) serves as the central procurement officer of the state;

(c) serves as a voting member of the board; and

(d) serves as the protest officer for a protest relating to a procurement of an executive branch procurement unit without independent procurement authority or a state cooperative contract procurement, unless the chief procurement officer designates another to serve as



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protest officer, as authorized in this chapter.

(2) Except as otherwise provided in this chapter, the chief procurement officer shall:

(a) develop procurement policies and procedures supporting ethical procurement practices, fair and open competition among vendors, and transparency within the state's procurement process;

(b) administer the state's cooperative purchasing program, including state cooperative contracts and associated administrative fees;

(c) enter into an agreement with a public entity for services provided by the division, if the agreement is in the best interest of the state;

(d) ensure the division's compliance with any applicable law, rule, or policy, including a law, rule, or policy applicable to the division's role as an issuing procurement unit or conducting procurement unit, or as the state's central procurement organization;

(e) manage the division's electronic procurement system;

(f) oversee the recruitment, training, career development, certification requirements, and performance evaluation of the division's procurement personnel;

(g) make procurement training available to procurement units and persons who do business with procurement units;

(h) provide exemplary customer service and continually improve the division's procurement operations; ~~and~~

(i) exercise all other authority, fulfill all other duties and responsibilities, and perform all other functions authorized under this chapter~~[-]; and~~

(j) ~~ensure that any training described in this Subsection (2) [is available in an online web-based format, unless the training includes a physical component that can only be completed in person](#)~~[complies with Title 63G, Chapter 21, State Training and Certification Requirements.](#)

(3) With respect to a procurement or contract over which the chief procurement officer has authority under this chapter, the chief procurement officer, except as otherwise provided in this chapter:

(a) shall:

(i) manage and supervise a procurement to ensure to the extent practicable that taxpayers receive the best value;

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- (ii) prepare and issue standard specifications for procurement items;
  - (iii) review contracts, coordinate contract compliance, conduct contract audits, and approve change orders;
  - (iv) in accordance with Section 63F-1-205, coordinate with the Department of Technology Services, created in Section 63F-1-103, with respect to the procurement of information technology services by an executive branch procurement unit;
  - (v) correct, amend, or cancel a procurement at any stage of the procurement process if the procurement is out of compliance with this chapter or a board rule;
  - (vi) after consultation with the attorney general's office, correct, amend, or cancel a contract at any time during the term of the contract if:
    - (A) the contract is out of compliance with this chapter or a board rule; and
    - (B) the chief procurement officer determines that correcting, amending, or canceling the contract is in the best interest of the state; and
  - (vii) make a reasonable attempt to resolve a contract dispute, in coordination with the attorney general's office; and
- (b) may:
- (i) delegate limited purchasing authority to a state agency, with appropriate oversight and control to ensure compliance with this chapter;
  - (ii) delegate duties and authority to an employee of the division, as the chief procurement officer considers appropriate;
  - (iii) negotiate and settle contract overcharges, undercharges, and claims, in accordance with the law and after consultation with the attorney general's office;
  - (iv) authorize a procurement unit to make a procurement pursuant to a regional solicitation, as defined in Subsection 63G-6a-2105[~~(2)~~](7), even if the procurement item is also offered under a state cooperative contract, if the chief procurement officer determines that the procurement pursuant to a regional solicitation is in the best interest of the acquiring procurement unit; and
  - (v) remove an individual from the procurement process or contract administration for:
    - (A) having a conflict of interest or the appearance of a conflict of interest with a person responding to a solicitation or with a contractor;
    - (B) having a bias or the appearance of bias for or against a person responding to a

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solicitation or for or against a contractor;

(C) making an inconsistent or unexplainable score for a solicitation response;

(D) having inappropriate contact or communication with a person responding to a solicitation;

(E) socializing inappropriately with a person responding to a solicitation or with a contractor;

(F) engaging in any other action or having any other association that causes the chief procurement officer to conclude that the individual cannot fairly evaluate a solicitation response or administer a contract; or

(G) any other violation of a law, rule, or policy.

(4) The chief procurement officer may not delegate to an individual outside the division the chief procurement officer's authority over a procurement described in Subsection (3)(a)(iv).

(5) The chief procurement officer has final authority to determine whether an executive branch procurement unit's anticipated expenditure of public funds, anticipated agreement to expend public funds, or provision of a benefit constitutes a procurement that is subject to this chapter.

(6) Except as otherwise provided in this chapter, the chief procurement officer shall review, monitor, and audit the procurement activities and delegated procurement authority of an executive branch procurement unit without independent procurement authority to ensure compliance with this chapter, rules made by the applicable rulemaking authority, and division policies.

Section 27. Section **63G-21-101** is enacted to read:

### **CHAPTER 21. STATE TRAINING AND CERTIFICATION REQUIREMENTS**

#### **63G-21-101. Title.**

This chapter is known as "State Training and Certification Requirements."

Section 28. Section **63G-21-102** is enacted to read:

#### **63G-21-102. Definitions.**

As used in this chapter:

(1) "Political subdivision" means:

(a) a county;

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(b) a municipality, as defined in Section 10-1-104;

(c) a local district;

(d) a special service district;

(e) an interlocal entity, as defined in Section 11-13-103;

(f) a community reinvestment agency;

(g) a local building authority; or

(h) a conservation district.

(2) "Public employee" means any individual employed by ~~or volunteering for~~ a state agency or a political subdivision who is not a public official.

(3) "Public official" means:

(a) an appointed official or an elected official as those terms are defined in Section 67-19-6.7; or

(b) an individual elected or appointed to a county office, municipal office, school board or school district office, local district office, or special service district office.

(4) "State agency" means a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of the executive branch of state government.

Section 29. Section **63G-21-103** is enacted to read:

### **63G-21-103. State training and certification requirements.**

Each state agency ~~or political subdivision~~ shall ensure that any training or certification that ~~the state agency or political subdivision requires~~ a public employee or public official ~~is required~~ to complete ~~by law~~ ~~is presented~~ or ~~state agency rule is~~ available in an online web-based format, which may include a live webinar, unless the training or certification includes a physical or interactive component that can only be completed in person.

Section 30. Section **64-13-6** is amended to read:

### **64-13-6. Department duties.**

(1) The department shall:

(a) protect the public through institutional care and confinement, and supervision in the community of offenders where appropriate;

(b) implement court-ordered punishment of offenders;

(c) provide program opportunities for offenders;

(d) provide treatment for sex offenders who are found to be treatable based upon

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criteria developed by the department;

(e) provide the results of ongoing assessment of sex offenders and objective diagnostic testing to sentencing and release authorities;

(f) manage programs that take into account the needs and interests of victims, where reasonable;

(g) supervise probationers and parolees as directed by statute and implemented by the courts and the Board of Pardons and Parole;

(h) subject to Subsection (2), investigate criminal conduct involving offenders incarcerated in a state correctional facility;

(i) cooperate and exchange information with other state, local, and federal law enforcement agencies to achieve greater success in prevention and detection of crime and apprehension of criminals;

(j) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult Offender Supervision; ~~and~~

(k) establish a case action plan for each offender as follows:

(i) if an offender is to be supervised in the community, the case action plan shall be established for the offender not more than 90 days after supervision by the department begins; and

(ii) if the offender is committed to the custody of the department, the case action plan shall be established for the offender not more than 120 days after the commitment[-]; and

(l) ensure that any training or certification [required of a public official or public employee, as those terms are defined in Section 63G-21-102](#), complies with Title 63G, Chapter 21, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department.

(2) The department may in the course of supervising probationers and parolees:

(a) impose graduated sanctions, as established by the Utah Sentencing Commission under Subsection 63M-7-404(6), for an individual's violation of one or more terms of the probation or parole; and

(b) upon approval by the court or the Board of Pardons and Parole, impose as a

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sanction for an individual's violation of the terms of probation or parole a period of incarceration of not more than three consecutive days and not more than a total of five days within a period of 30 days.

(3) (a) By following the procedures in Subsection (3)(b), the department may investigate the following occurrences at state correctional facilities:

- (i) criminal conduct of departmental employees;
- (ii) felony crimes resulting in serious bodily injury;
- (iii) death of any person; or
- (iv) aggravated kidnaping.

(b) Prior to investigating any occurrence specified in Subsection (3)(a), the department shall:

(i) notify the sheriff or other appropriate law enforcement agency promptly after ascertaining facts sufficient to believe an occurrence specified in Subsection (3)(a) has occurred; and

(ii) obtain consent of the sheriff or other appropriate law enforcement agency to conduct an investigation involving an occurrence specified in Subsection (3)(a).

(4) Upon request, the department shall provide copies of investigative reports of criminal conduct to the sheriff or other appropriate law enforcement agencies.

(5) The Department of Corrections shall collect accounts receivable ordered by the district court as a result of prosecution for a criminal offense according to the requirements and during the time periods established in Subsection 77-18-1(9).

Section 31. Section **67-3-1** is amended to read:

### **67-3-1. Functions and duties.**

(1) (a) The state auditor is the auditor of public accounts and is independent of any executive or administrative officers of the state.

(b) The state auditor is not limited in the selection of personnel or in the determination of the reasonable and necessary expenses of the state auditor's office.

(2) The state auditor shall examine and certify annually in respect to each fiscal year, financial statements showing:

- (a) the condition of the state's finances;
- (b) the revenues received or accrued;

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(c) expenditures paid or accrued;

(d) the amount of unexpended or unencumbered balances of the appropriations to the agencies, departments, divisions, commissions, and institutions; and

(e) the cash balances of the funds in the custody of the state treasurer.

(3) (a) The state auditor shall:

(i) audit each permanent fund, each special fund, the General Fund, and the accounts of any department of state government or any independent agency or public corporation as the law requires, as the auditor determines is necessary, or upon request of the governor or the Legislature;

(ii) perform the audits in accordance with generally accepted auditing standards and other auditing procedures as promulgated by recognized authoritative bodies;

(iii) as the auditor determines is necessary, conduct the audits to determine:

(A) honesty and integrity in fiscal affairs;

(B) accuracy and reliability of financial statements;

(C) effectiveness and adequacy of financial controls; and

(D) compliance with the law.

(b) If any state entity receives federal funding, the state auditor shall ensure that the audit is performed in accordance with federal audit requirements.

(c) (i) The costs of the federal compliance portion of the audit may be paid from an appropriation to the state auditor from the General Fund.

(ii) If an appropriation is not provided, or if the federal government does not specifically provide for payment of audit costs, the costs of the federal compliance portions of the audit shall be allocated on the basis of the percentage that each state entity's federal funding bears to the total federal funds received by the state.

(iii) The allocation shall be adjusted to reflect any reduced audit time required to audit funds passed through the state to local governments and to reflect any reduction in audit time obtained through the use of internal auditors working under the direction of the state auditor.

(4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to financial audits, and as the auditor determines is necessary, conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds, including a determination of any or all of the following:

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- (i) the honesty and integrity of all its fiscal affairs;
  - (ii) whether or not its administrators have faithfully complied with legislative intent;
  - (iii) whether or not its operations have been conducted in an efficient, effective, and cost-efficient manner;
  - (iv) whether or not its programs have been effective in accomplishing the intended objectives; and
  - (v) whether or not its management, control, and information systems are adequate, effective, and secure.
- (b) The auditor may not conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds if the entity:
- (i) has an elected auditor; and
  - (ii) has, within the entity's last budget year, had its financial statements or performance formally reviewed by another outside auditor.
- (5) The state auditor shall administer any oath or affirmation necessary to the performance of the duties of the auditor's office, and may subpoena witnesses and documents, whether electronic or otherwise, and examine into any matter that the auditor considers necessary.
- (6) The state auditor may require all persons who have had the disposition or management of any property of this state or its political subdivisions to submit statements regarding it at the time and in the form that the auditor requires.
- (7) The state auditor shall:
- (a) except where otherwise provided by law, institute suits in Salt Lake County in relation to the assessment, collection, and payment of its revenues against:
    - (i) persons who by any means have become entrusted with public money or property and have failed to pay over or deliver the money or property; and
    - (ii) all debtors of the state;
  - (b) collect and pay into the state treasury all fees received by the state auditor;
  - (c) perform the duties of a member of all boards of which the state auditor is a member by the constitution or laws of the state, and any other duties that are prescribed by the constitution and by law;
  - (d) stop the payment of the salary of any state official or state employee who:



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(i) refuses to settle accounts or provide required statements about the custody and disposition of public funds or other state property;

(ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling board or department head with respect to the manner of keeping prescribed accounts or funds; or

(iii) fails to correct any delinquencies, improper procedures, and errors brought to the official's or employee's attention;

(e) establish accounting systems, methods, and forms for public accounts in all taxing or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

(f) superintend the contractual auditing of all state accounts;

(g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that officials and employees in those taxing units comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds; and

(h) subject to Subsection (9), withhold the disbursement of tax money from any county, if necessary, to ensure that officials and employees in the county comply with Section 59-2-303.1.

(8) (a) Except as otherwise provided by law, the state auditor may not withhold funds under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(b) If, after receiving notice under Subsection (8)(a), a state or independent local fee-assessing unit that exclusively assesses fees has not made corrections to comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the state auditor:

(i) shall provide a recommended timeline for corrective actions; and

(ii) may prohibit the state or local fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a state or local fee-assessing unit from accessing money held in an account of a financial institution by filing an action in district court requesting an order of the court to prohibit a financial institution from providing the fee-assessing unit access to an

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account.

(c) The state auditor shall remove a limitation on accessing funds under Subsection (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds.

(d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with state law, the state auditor:

(i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to comply;

(ii) may prohibit the taxing or fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a taxing or fee-assessing unit from accessing money held in an account of a financial institution by:

(A) contacting the taxing or fee-assessing unit's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the taxing or fee-assessing unit access to an account.

(e) If the local taxing or fee-assessing unit adopts a budget in compliance with state law, the state auditor shall eliminate a limitation on accessing funds described in Subsection (8)(d).

(9) The state auditor may not withhold funds under Subsection (7)(h) until a county has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(10) Notwithstanding Subsection (7)(g), (7)(h), (8)(b), or (8)(d) the state auditor:

(a) shall authorize a disbursement by a state or local taxing or fee-assessing unit if the disbursement is necessary to:

(i) avoid a major disruption in the operations of the state or local taxing or fee-assessing unit; or

(ii) meet debt service obligations; and

(b) may authorize a disbursement by a state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

(11) The state auditor shall:

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(a) establish audit guidelines and procedures for audits of local mental health and substance abuse authorities and their contract providers, conducted pursuant to Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, and Title 17, Chapter 43, Part 3, Local Mental Health Authorities, Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, and Title 62A, Chapter 15, Substance Abuse and Mental Health Act; and

(b) ensure that those guidelines and procedures provide assurances to the state that:

(i) state and federal funds appropriated to local mental health authorities are used for mental health purposes;

(ii) a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for a local mental health authority is in compliance with state and local contract requirements, and state and federal law;

(iii) state and federal funds appropriated to local substance abuse authorities are used for substance abuse programs and services; and

(iv) a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse programs or services for a local substance abuse authority is in compliance with state and local contract requirements, and state and federal law.

(12) The state auditor may, in accordance with the auditor's responsibilities for political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or investigations of any political subdivision that are necessary to determine honesty and integrity in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of financial controls and compliance with the law.

(13) (a) The state auditor may not audit work that the state auditor performed before becoming state auditor.

(b) If the state auditor has previously been a responsible official in state government whose work has not yet been audited, the Legislature shall:

(i) designate how that work shall be audited; and

(ii) provide additional funding for those audits, if necessary.

(14) The state auditor shall:

(a) with the assistance, advice, and recommendations of an advisory committee

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appointed by the state auditor from among local district boards of trustees, officers, and employees and special service district boards, officers, and employees:

(i) prepare a Uniform Accounting Manual for Local Districts that:

(A) prescribes a uniform system of accounting and uniform budgeting and reporting procedures for local districts under Title 17B, Limited Purpose Local Government Entities - Local Districts, and special service districts under Title 17D, Chapter 1, Special Service District Act;

(B) conforms with generally accepted accounting principles; and

(C) prescribes reasonable exceptions and modifications for smaller districts to the uniform system of accounting, budgeting, and reporting;

(ii) maintain the manual under Subsection (14)(a) so that it continues to reflect generally accepted accounting principles;

(iii) conduct a continuing review and modification of procedures in order to improve them;

(iv) prepare and supply each district with suitable budget and reporting forms; and

(v) (A) prepare instructional materials, conduct training programs, and render other services considered necessary to assist local districts and special service districts in implementing the uniform accounting, budgeting, and reporting procedures; and

(B) ensure that any training described in Subsection (14)(a)(v)(A) ~~is available in an online web-based format, unless the training includes a physical component that can only be completed in person~~ complies with Title 63G, Chapter 21, State Training and Certification Requirements; and

(b) continually analyze and evaluate the accounting, budgeting, and reporting practices and experiences of specific local districts and special service districts selected by the state auditor and make the information available to all districts.

(15) (a) The following records in the custody or control of the state auditor are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

(i) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the state auditor through

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other documents or evidence, and the records relating to the allegation are not relied upon by the state auditor in preparing a final audit report;

(ii) records and audit workpapers to the extent they would disclose the identity of a person who during the course of an audit, communicated the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(iii) before an audit is completed and the final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for their response or information;

(iv) records that would disclose an outline or part of any audit survey plans or audit program; and

(v) requests for audits, if disclosure would risk circumvention of an audit.

(b) The provisions of Subsections (15)(a)(i), (ii), and (iii) do not prohibit the disclosure of records or information that relate to a violation of the law by a governmental entity or employee to a government prosecutor or peace officer.

(c) The provisions of this Subsection (15) do not limit the authority otherwise given to the state auditor to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(d) (i) As used in this Subsection (15)(d), "record dispute" means a dispute between the state auditor and the subject of an audit performed by the state auditor as to whether the state auditor may release a record, as defined in Section 63G-2-103, to the public that the state auditor gained access to in the course of the state auditor's audit but which the subject of the audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.

(ii) The state auditor may submit a record dispute to the State Records Committee, created in Section 63G-2-501, for a determination of whether the state auditor may, in conjunction with the state auditor's release of an audit report, release to the public the record that is the subject of the record dispute.

(iii) The state auditor or the subject of the audit may seek judicial review of a State

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Records Committee determination under Subsection (15)(d)(ii), as provided in Section 63G-2-404.

(16) If the state auditor conducts an audit of an entity that the state auditor has previously audited and finds that the entity has not implemented a recommendation made by the state auditor in a previous audit, the state auditor shall notify the Legislative Management Committee through its audit subcommittee that the entity has not implemented that recommendation.

Section 32. Section **67-5-1** is amended to read:

### **67-5-1. General duties.**

The attorney general shall:

(1) perform all duties in a manner consistent with the attorney-client relationship under Section 67-5-17;

(2) except as provided in Sections 10-3-928 and 17-18a-403, attend the Supreme Court and the Court of Appeals of this state, and all courts of the United States, and prosecute or defend all causes to which the state or any officer, board, or commission of the state in an official capacity is a party, and take charge, as attorney, of all civil legal matters in which the state is interested;

(3) after judgment on any cause referred to in Subsection (2), direct the issuance of process as necessary to execute the judgment;

(4) account for, and pay over to the proper officer, all money that comes into the attorney general's possession that belongs to the state;

(5) keep a file of all cases in which the attorney general is required to appear, including any documents and papers showing the court in which the cases have been instituted and tried, and whether they are civil or criminal, and:

(a) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to judgment, a memorandum of the judgment and of any process issued if satisfied, and if not satisfied, documentation of the return of the sheriff;

(b) if criminal, the nature of the crime, the mode of prosecution, the stage of proceedings, and, when prosecuted to sentence, a memorandum of the sentence and of the execution, if the sentence has been executed, and, if not executed, the reason for the delay or prevention; and

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(c) deliver this information to the attorney general's successor in office;

(6) exercise supervisory powers over the district and county attorneys of the state in all matters pertaining to the duties of their offices, and from time to time require of them reports of the condition of public business entrusted to their charge;

(7) give the attorney general's opinion in writing and without fee to the Legislature or either house and to any state officer, board, or commission, and to any county attorney or district attorney, when required, upon any question of law relating to their respective offices;

(8) when required by the public service or directed by the governor, assist any county, district, or city attorney in the discharge of county, district, or city attorney's duties;

(9) purchase in the name of the state, under the direction of the state Board of Examiners, any property offered for sale under execution issued upon judgments in favor of or for the use of the state, and enter satisfaction in whole or in part of the judgments as the consideration of the purchases;

(10) when the property of a judgment debtor in any judgment mentioned in Subsection (9) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance taking precedence of the judgment in favor of the state, redeem the property, under the direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and pay all money necessary for the redemption, upon the order of the state Board of Examiners, out of any money appropriated for these purposes;

(11) when in the attorney general's opinion it is necessary for the collection or enforcement of any judgment, institute and prosecute on behalf of the state any action or proceeding necessary to set aside and annul all conveyances fraudulently made by the judgment debtors, and pay the cost necessary to the prosecution, when allowed by the state Board of Examiners, out of any money not otherwise appropriated;

(12) discharge the duties of a member of all official boards of which the attorney general is or may be made a member by the Utah Constitution or by the laws of the state, and other duties prescribed by law;

(13) institute and prosecute proper proceedings in any court of the state or of the United States to restrain and enjoin corporations organized under the laws of this or any other state or territory from acting illegally or in excess of their corporate powers or contrary to public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations,

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and wind up their affairs;

(14) institute investigations for the recovery of all real or personal property that may have escheated or should escheat to the state, and for that purpose, subpoena any persons before any of the district courts to answer inquiries and render accounts concerning any property, examine all books and papers of any corporations, and when any real or personal property is discovered that should escheat to the state, institute suit in the district court of the county where the property is situated for its recovery, and escheat that property to the state;

(15) administer the Children's Justice Center as a program to be implemented in various counties pursuant to Sections 67-5b-101 through 67-5b-107;

(16) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4a, Constitutional and Federalism Defense Act;

(17) pursue any appropriate legal action to implement the state's public lands policy established in Section 63C-4a-103;

(18) investigate and prosecute violations of all applicable state laws relating to fraud in connection with the state Medicaid program and any other medical assistance program administered by the state, including violations of Title 26, Chapter 20, Utah False Claims Act;

(19) investigate and prosecute complaints of abuse, neglect, or exploitation of patients at:

(a) health care facilities that receive payments under the state Medicaid program; and

(b) board and care facilities, as defined in the federal Social Security Act, 42 U.S.C. Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility;

(20) (a) report at least twice per year to the Legislative Management Committee on any pending or anticipated lawsuits, other than eminent domain lawsuits, that might:

(i) cost the state more than \$500,000; or

(ii) require the state to take legally binding action that would cost more than \$500,000 to implement; and

(b) if the meeting is closed, include an estimate of the state's potential financial or other legal exposure in that report; [~~and~~]

(21) if the attorney general operates the Office of the Attorney General or any portion of the Office of the Attorney General as an internal service fund agency in accordance with Section 67-5-4, submit to the rate committee established in Section 67-5-34:



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(a) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and

(b) any other information or analysis requested by the rate committee[-]; and

(22) ensure that any training required under this chapter ~~is available in an online web-based format, unless the training includes a physical component that can only be completed in person~~ complies with Title 63G, Chapter 21, State Training and Certification Requirements.

Section 33. Section **67-5a-1** is amended to read:

### **67-5a-1. Utah Prosecution Council -- Duties -- Membership.**

(1) There is created within the Office of the Attorney General the Utah Prosecution Council, referred to as the council in this chapter.

(2) The council shall:

(a) (i) provide training and continuing legal education for state and local prosecutors; and

(ii) ensure that any training or continuing legal education described in Subsection (2)(a)(i) ~~is available in an online web-based format, unless the training or continuing legal education includes a physical component that can only be completed in person~~ complies with Title 63G, Chapter 21, State Training and Certification Requirements;

(b) provide assistance to local prosecutors; and

(c) as funds are available and as are budgeted for this purpose, provide reimbursement for unusual expenses related to prosecution for violations of state laws.

(3) The council shall be composed of 10 members, selected as follows:

(a) the attorney general or a designated representative;

(b) the commissioner of public safety or a designated representative;

(c) four currently serving county or district attorneys designated by the county or district attorneys' section of the Utah Association of Counties; a county or district attorney's term expires when a successor is designated by the county or district attorneys' section or when he is no longer serving as a county attorney or district attorney, whichever occurs first;

(d) two city prosecutors designated by the Utah Municipal Attorneys Association; a city prosecutor's term expires when a successor is designated by the association or when he is no longer employed as a city prosecutor, whichever occurs first;

(e) the chair of the Board of Directors of the Statewide Association of Public Attorneys

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of Utah; and

(f) the chair of the governing board of the Utah Prosecutorial Assistants Association.

Section 34. Section **67-5b-102** is amended to read:

### **67-5b-102. Children's Justice Center -- Duties of center.**

(1) (a) There is established a program, known as the Children's Justice Center Program, that provides a comprehensive, multidisciplinary, intergovernmental response to child abuse victims in a facility known as a Children's Justice Center.

(b) The attorney general shall administer the program.

(c) The attorney general shall:

(i) allocate the funds appropriated by a line item pursuant to Section 67-5b-103;

(ii) administer applications for state and federal grants and subgrants;

(iii) staff the Advisory Board on Children's Justice;

(iv) assist in the development of new centers;

(v) coordinate services between centers;

(vi) contract with counties and other entities for the provision of services;

(vii) (A) provide training, technical assistance, and evaluation to centers; and

(B) ensure that any training described in Subsection (1)(c)(vii)(A) ~~is available in an online web-based format, unless the training includes a physical component that can only be completed in person~~ complies with Title 63G, Chapter 21, State Training and Certification Requirements; and

(viii) provide other services to comply with established minimum practice standards as required to maintain the state's and centers' eligibility for grants and subgrants.

(2) (a) The attorney general shall establish Children's Justice Centers, satellite offices, or multidisciplinary teams in Beaver County, Box Elder County, Cache County, Carbon County, Davis County, Duchesne County, Emery County, Grand County, Iron County, Kane County, Salt Lake County, San Juan County, Sanpete County, Sevier County, Summit County, Tooele County, Uintah County, Utah County, Wasatch County, Washington County, and Weber County.

(b) The attorney general may establish other centers, satellites, or multidisciplinary teams within a county and in other counties of the state.

(3) The attorney general and each center shall:

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(a) coordinate the activities of the public agencies involved in the investigation and prosecution of child abuse cases and the delivery of services to child abuse victims and child abuse victims' families;

(b) provide a neutral, child-friendly program, where interviews are conducted and services are provided to facilitate the effective and appropriate disposition of child abuse cases in juvenile, civil, and criminal court proceedings;

(c) facilitate a process for interviews of child abuse victims to be conducted in a professional and neutral manner;

(d) obtain reliable and admissible information that can be used effectively in child abuse cases in the state;

(e) maintain a multidisciplinary team that includes representatives of public agencies involved in the investigation and prosecution of child abuse cases and in the delivery of services to child abuse victims and child abuse victims' families;

(f) hold regularly scheduled case reviews with the multidisciplinary team;

(g) coordinate and track:

(i) investigation of the alleged offense; and

(ii) preparation of prosecution;

(h) maintain a working protocol that addresses the center's procedures for conducting forensic interviews and case reviews, and for ensuring a child abuse victim's access to medical and mental health services;

(i) maintain a system to track the status of cases and the provision of services to child abuse victims and child abuse victims' families;

(j) provide training for professionals involved in the investigation and prosecution of child abuse cases and in the provision of related treatment and services;

(k) enhance community understanding of child abuse cases; and

(l) provide as many services as possible that are required for the thorough and effective investigation of child abuse cases.

(4) To assist a center in fulfilling the requirements and statewide purposes as provided in Subsection (3), each center may obtain access to any relevant juvenile court legal records and adult court legal records, unless sealed by the court.

Section 35. Section **67-19-6** is amended to read:

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### 67-19-6. Responsibilities of the executive director.

(1) The executive director shall:

(a) develop, implement, and administer a statewide program of human resource management that will:

(i) aid in the efficient execution of public policy;

(ii) foster careers in public service for qualified employees; and

(iii) render assistance to state agencies in performing their missions;

(b) design and administer the state pay plan;

(c) design and administer the state classification system and procedures for determining schedule assignments;

(d) design and administer the state recruitment and selection system;

(e) administer agency human resource practices and ensure compliance with federal law, state law, and state human resource rules, including equal employment opportunity;

(f) consult with agencies on decisions concerning employee corrective action and discipline;

(g) maintain central personnel records;

(h) perform those functions necessary to implement this chapter unless otherwise assigned or prohibited;

(i) perform duties assigned by the governor or statute;

(j) adopt rules for human resource management according to the procedures of Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(k) establish and maintain a management information system that will furnish the governor, the Legislature, and agencies with current information on authorized positions, payroll, and related matters concerning state human resources;

(l) conduct research and planning activities to:

(i) determine and prepare for future state human resource needs;

(ii) develop methods for improving public human resource management; and

(iii) propose needed policy changes to the governor;

(m) study the character, causes, and extent of discrimination in state employment and develop plans for its elimination through programs consistent with federal and state laws governing equal employment opportunity in employment;

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(n) when requested by counties, municipalities, and other political subdivisions of the state, provide technical service and advice on human resource management at a charge determined by the executive director;

(o) establish compensation policies and procedures for early voluntary retirement;

(p) confer with the heads of other agencies about human resource policies and procedures;

(q) submit an annual report to the governor and the Legislature; and

(r) assist with the development of a vacant position report required under Subsection 63J-1-201(2)(b)(vi).

(2) (a) After consultation with the governor and the heads of other agencies, the executive director shall establish and coordinate statewide training programs, including and subject to available funding, the development of manager and supervisor training.

(b) The programs developed under this Subsection (2) shall have application to more than one agency.

(c) The department may not establish training programs that train employees to perform highly specialized or technical jobs and tasks.

(d) The department shall ensure that any training program described in this Subsection (2) complies with Title 63G, Chapter 21, State Training and Certification Requirements.

(3) (a) (i) The department may collect fees for training as authorized by this Subsection (3).

(ii) Training funded from General Fund appropriations shall be treated as a separate program within the department budget.

(iii) All money received from fees under this section will be accounted for by the department as a separate user driven training program.

(iv) The user training program includes the costs of developing, procuring, and presenting training and development programs, and other associated costs for these programs.

(b) (i) Funds remaining at the end of the fiscal year in the user training program are nonlapsing.

(ii) Each year, as part of the appropriations process, the Legislature shall review the amount of nonlapsing funds remaining at the end of the fiscal year and may, by statute, require the department to lapse a portion of the funds.

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Section 36. Section **67-19e-110** is amended to read:

### **67-19e-110. Required training.**

(1) Each year that an administrative law judge receives a performance evaluation conducted by the department under this chapter, the administrative law judge shall complete the procedural fairness training program described in this section.

(2) The department shall establish a procedural fairness training program that includes training on how an administrative law judge's actions and behavior influence others' perceptions of the fairness of the adjudicative process.

(3) The procedural fairness training program shall include discussion of the following elements of procedural fairness:

(a) neutrality, including:

(i) consistent and equal treatment of the individuals who appear before the administrative law judge;

(ii) concern for the individual needs of the individuals who appear before the administrative law judge; and

(iii) unhurried and careful deliberation;

(b) respectful treatment of others; and

(c) providing individuals a voice and opportunity to be heard.

(4) The department may contract with a public or private person to develop or provide the procedural fairness training program.

~~(5) The department shall ensure that the procedural fairness training program is available in an online web-based format, unless the procedural fairness training program includes a physical component that can only be completed in person.~~ complies with Title 63G, Chapter 21, State Training and Certification Requirements.

Section 37. Section **71-8-2** is amended to read:

**71-8-2. Department of Veterans' and Military Affairs created -- Appointment of executive director -- Department responsibilities.**

(1) There is created the Department of Veterans' and Military Affairs.

(2) The governor shall appoint an executive director for the department, after consultation with the Veterans' Advisory Council, who is subject to Senate confirmation.

(a) The executive director shall be an individual who:

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- (i) has served on active duty in the armed forces for more than 180 consecutive days;
- (ii) was a member of a reserve component who served in a campaign or expedition for which a campaign medal has been authorized; or
- (iii) incurred an actual service-related injury or disability in the line of duty, whether or not that person completed 180 consecutive days of active duty; and
- (iv) was separated or retired under honorable conditions.

(b) Any veteran or veteran's group may submit names to the council for consideration.

(3) The department shall:

(a) conduct and supervise all veteran activities as provided in this title;

(b) determine which campaign or combat theater awards are eligible for a special group license plate in accordance with Section 41-1a-418;

(c) verify that an applicant for a campaign or combat theater award special group license plate is qualified to receive it;

(d) provide an applicant that qualifies a form indicating the campaign or combat theater award special group license plate for which the applicant qualifies; [~~and~~]

(e) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this title[-]; and

(f) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-21-102, complies with Title 63G, Chapter 21, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department.

(4) Nothing in this chapter shall be construed as altering or preempting the provisions of Title 39, Militia and Armories, as specifically related to the Utah National Guard.

Section 38. Section **72-1-201** is amended to read:

**72-1-201. Creation of Department of Transportation -- Functions, powers, duties, rights, and responsibilities.**

(1) There is created the Department of Transportation which shall:

(a) have the general responsibility for planning, research, design, construction, maintenance, security, and safety of state transportation systems;

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(b) provide administration for state transportation systems and programs;  
(c) implement the transportation policies of the state;  
(d) plan, develop, construct, and maintain state transportation systems that are safe, reliable, environmentally sensitive, and serve the needs of the traveling public, commerce, and industry;

(e) establish standards and procedures regarding the technical details of administration of the state transportation systems as established by statute and administrative rule;

(f) advise the governor and the Legislature about state transportation systems needs;

(g) coordinate with utility companies for the reasonable, efficient, and cost-effective installation, maintenance, operation, relocation, and upgrade of utilities within state highway rights-of-way;

(h) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make policy and rules for the administration of the department, state transportation systems, and programs; [~~and~~]

(i) annually report to the Transportation Interim Committee, by November 30 of each year, as to the:

(i) operation, maintenance, condition, and safety needs for highways; and

(ii) condition, safety, and mobility of the state transportation system jointly with the Transportation Commission[-]; and

(j) ensure that any training or certification [required of a public official or public employee, as those terms are defined in Section 63G-21-102](#), complies with Title 63G, Chapter 21, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department.

(2) (a) The department shall exercise reasonable care in designing, constructing, and maintaining a state highway in a reasonably safe condition for travel.

(b) Nothing in this section shall be construed as:

(i) creating a private right of action; or

(ii) expanding or changing the department's common law duty as described in

Subsection (2)(a) for liability purposes.



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Section 39. Section ~~76-9-907~~ is amended to read:

### **76-9-907. Training for participating law enforcement officers.**

The sheriff or chief of police implementing this part shall ensure that:

- (1) all officers charged with enforcing this part successfully complete appropriate training on identification of gang members and criminal street gangs[-]; and
- (2) ~~any training described in this section [is available in an online web-based format, unless the training includes a physical component that can only be completed in person](#)~~ complies with Title 63G, Chapter 21, State Training and Certification Requirements.

Section 40. Section ~~78A-2-107~~ is amended to read:

### **78A-2-107. Court administrator -- Powers, duties, and responsibilities.**

Under the general supervision of the presiding officer of the Judicial Council, and within the policies established by the council, the administrator shall:

- (1) organize and administer all of the nonjudicial activities of the courts;
- (2) assign, supervise, and direct the work of the nonjudicial officers of the courts;
- (3) implement the standards, policies, and rules established by the council;
- (4) formulate and administer a system of personnel administration, including in-service training programs;
- (5) prepare and administer the state judicial budget, fiscal, accounting, and procurement activities for the operation of the courts of record, and assist justices' courts in their budgetary, fiscal, and accounting procedures;
- (6) conduct studies of the business of the courts, including the preparation of recommendations and reports relating to them;
- (7) develop uniform procedures for the management of court business, including the management of court calendars;
- (8) maintain liaison with the governmental and other public and private groups having an interest in the administration of the courts;
- (9) establish uniform policy concerning vacations and sick leave for judges and nonjudicial officers of the courts;
- (10) establish uniform hours for court sessions throughout the state and may, with the consent of the presiding officer of the Judicial Council, call and appoint justices or judges of courts of record to serve temporarily as Court of Appeals, district court, or juvenile court

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judges and set reasonable compensation for their services;

(11) when necessary for administrative reasons, change the county for trial of any case if no party to the litigation files timely objections to this change;

(12) (a) organize and administer a program of continuing education for judges and support staff, including training for justice court judges; and

(b) ensure that any training or continuing education described in Subsection (12)(a) ~~is~~ available in an online web-based format, unless the training or continuing education includes a physical component that can only be completed in person; complies with Title 63G, Chapter 21, State Training and Certification Requirements;

(13) provide for an annual meeting for each level of the courts of record, and the annual judicial conference; and

(14) perform other duties as assigned by the presiding officer of the council.

Section 41. Section **78B-6-204** is amended to read:

### **78B-6-204. Dispute Resolution Programs -- Director -- Duties -- Report.**

(1) Within the Administrative Office of the Courts, there shall be a director of Dispute Resolution Programs, appointed by the state court administrator.

(2) The director shall be an employee of the Administrative Office of the Courts and shall be responsible for the administration of all court-annexed Dispute Resolution Programs. The director shall have duties, powers, and responsibilities as the Judicial Council may determine. The qualifications for employment of the director shall be based on training and experience in the management, principles, and purposes of alternative dispute resolution procedures.

(3) In order to implement the purposes of this part, the Administrative Office of the Courts may employ or contract with ADR providers or ADR organizations on a case-by-case basis, on a service basis, or on a program basis. [~~ADR providers and organizations shall be subject to the rules and fees set by the Judicial Council.~~]

(4) The Administrative Office of the Courts shall:

(a) establish programs for training ADR providers and orienting attorneys and their clients to ADR programs and procedures[-]; and

(b) ensure that any training described in Subsection (4)(a) ~~is~~ available in an online web-based format, unless the training includes a physical component that can only be

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~~completed in person~~ complies with Title 63G, Chapter 21, State Training and Certification Requirements.

(5) ADR providers and organizations are subject to the rules and fees set by the Judicial Council.

~~[(4)]~~ (6) An ADR provider is immune from all liability when conducting proceedings under the rules of the Judicial Council and the provisions of this part, except for wrongful disclosure of confidential information, to the same extent as a judge of the courts in this state.

~~[(5)]~~ (7) (a) The director shall report annually to the Supreme Court, the Judicial Council, the governor, and the Utah State Bar on the operation of the Dispute Resolution Programs.

(b) The director shall provide the report to the Judiciary Interim Committee, if requested by the committee.

(c) Copies of the report shall be available to the public at the Administrative Office of the Courts.

(d) The report shall include:

(i) identification of participating judicial districts and the methods of alternative dispute resolution that are available in those districts;

(ii) the number and types of disputes received;

(iii) the methods of alternative dispute resolution to which the disputes were referred;

(iv) the course of the referral;

(v) the status of cases referred to alternative dispute resolution or the disposition of these disputes; and

(vi) any problems encountered in the administration of the program and the recommendations of the director as to the continuation or modification of any program.

(e) Nothing may be included in a report which would impair the privacy or confidentiality of any specific ADR proceeding.

Section 42. Section **79-2-202** is amended to read:

**79-2-202. Executive director -- Appointment -- Removal -- Compensation -- Responsibilities.**

(1) (a) The chief administrative officer of the department is an executive director appointed by the governor with the consent of the Senate.

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(b) The executive director may be removed at the will of the governor.

(c) The executive director shall receive a salary established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(2) The executive director shall:

(a) administer and supervise the department and provide for coordination and cooperation among the boards, divisions, councils, and committees of the department;

(b) approve the budget of each board and division;

(c) participate in regulatory proceedings as appropriate for the functions and duties of the department;

(d) report at the end of each fiscal year to the governor on department, board, and division activities; [~~and~~]

(e) ensure that any training or certification [required of a public official or public employee, as those terms are defined in Section 63G-21-102](#), complies with Title 63G, Chapter 21, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department; and

[~~(f)~~] (f) perform other duties as provided by statute.

(3) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the executive director, may accept an executive or legislative provision that is enacted by the federal government, whereby the state may participate in the distribution, disbursement, or administration of a fund or service from the federal government for purposes consistent with the powers and duties of the department.

(4) (a) The executive director, in cooperation with the governmental entities having policymaking authority regarding natural resources, may engage in studies and comprehensive planning for the development and conservation of the state's natural resources.

(b) The executive director shall submit any plan to the governor for review and approval.

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**HB0437S01 compared with HB0437**

**Legislative Review Note**

**Office of Legislative Research and General Counsel**