

Anthony E. Loubet proposes the following substitute bill:

**Trust Business Modifications**

2026 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Anthony E. Loubet**

Senate Sponsor: Todd Weiler

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**LONG TITLE**

**General Description:**

This bill amends provisions relating to trust business.

**Highlighted Provisions:**

This bill:

- defines terms;
- reorganizes and renumbers the sections of Title 7, Chapter 5, Trust Business;
- exempts certain persons from the definition of trust business; and
- makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

- 7-1-401**, as last amended by Laws of Utah 2022, Chapter 449
- 7-1-701**, as last amended by Laws of Utah 2014, Chapter 97
- 7-5-11**, as last amended by Laws of Utah 2025, Chapter 310
- 7-18a-302**, as enacted by Laws of Utah 1996, Chapter 63
- 7-22-101**, as last amended by Laws of Utah 2020, Chapter 365
- 16-15-102**, as enacted by Laws of Utah 1995, Chapter 310
- 31A-23a-406**, as last amended by Laws of Utah 2024, Chapter 120
- 31A-23a-409**, as last amended by Laws of Utah 2023, Chapters 111, 194
- 59-10-202**, as last amended by Laws of Utah 2025, First Special Session, Chapter 9
- 75B-1-101**, as last amended by Laws of Utah 2025, Chapters 310, 338
- 75B-3-107**, as renumbered and amended by Laws of Utah 2025, Chapter 310

29 ENACTS:

30 **7-5-102**, Utah Code Annotated 1953

31 RENUMBERS AND AMENDS:

32 **7-5-101**, (Renumbered from 7-5-1, as last amended by Laws of Utah 2025, Chapters  
33 310, 338 and 533)

34 **7-5-103**, (Renumbered from 7-5-2, as last amended by Laws of Utah 2014, Chapter 189)

35 **7-5-104**, (Renumbered from 7-5-3, as last amended by Laws of Utah 2025, Chapter 302)

36 **7-5-105**, (Renumbered from 7-5-4, as last amended by Laws of Utah 2010, Chapter 378)

37 **7-5-106**, (Renumbered from 7-5-5, as last amended by Laws of Utah 2001, Chapter 9)

38 **7-5-107**, (Renumbered from 7-5-6, as last amended by Laws of Utah 2025, Chapter 310)

39 **7-5-108**, (Renumbered from 7-5-7, as last amended by Laws of Utah 2025, Chapter 310)

40 **7-5-109**, (Renumbered from 7-5-8, as last amended by Laws of Utah 2014, Chapter 189)

41 **7-5-110**, (Renumbered from 7-5-9, as last amended by Laws of Utah 2010, Chapter 93)

42 **7-5-111**, (Renumbered from 7-5-10, as last amended by Laws of Utah 2025, Chapter  
43 310)

44 **7-5-112**, (Renumbered from 7-5-11, as last amended by Laws of Utah 2025, Chapter  
45 310)

46 **7-5-113**, (Renumbered from 7-5-12, as last amended by Laws of Utah 2025, Chapter  
47 302)

48 **7-5-114**, (Renumbered from 7-5-13, as last amended by Laws of Utah 2023, Chapter  
49 401)

50 **7-5-115**, (Renumbered from 7-5-14, as last amended by Laws of Utah 2007, Chapter  
51 277)

52 **7-5-116**, (Renumbered from 7-5-15, as last amended by Laws of Utah 2014, Chapter  
53 189)

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

56 Section 1. Section **7-1-401** is amended to read:

57 **7-1-401 . Fees payable to commissioner.**

58 (1) Except for an out-of-state depository institution with a branch in Utah, a depository  
59 institution under the jurisdiction of the department shall pay an annual fee:

60 (a) computed by averaging the total assets of the depository institution shown on each  
61 quarterly report of condition for the depository institution for the calendar year

62 immediately preceding the date on which the annual fee is due under Section 7-1-402;

- 63 and
- 64 (b) at the following rates:
- 65 (i) on the first \$5,000,000 of these assets, the greater of:
- 66 (A) 65 cents per \$1,000; or
- 67 (B) \$500;
- 68 (ii) on the next \$10,000,000 of these assets, 35 cents per \$1,000;
- 69 (iii) on the next \$35,000,000 of these assets, 15 cents per \$1,000;
- 70 (iv) on the next \$50,000,000 of these assets, 12 cents per \$1,000;
- 71 (v) on the next \$200,000,000 of these assets, 10 cents per \$1,000;
- 72 (vi) on the next \$300,000,000 of these assets, 6 cents per \$1,000; and
- 73 (vii) on all amounts over \$600,000,000 of these assets, 2 cents per \$1,000.
- 74 (2) A financial institution with a trust department shall pay a fee determined in accordance
- 75 with Subsection (7) for each examination of the trust department by a state examiner.
- 76 (3) Notwithstanding Subsection (1), a credit union in [~~its~~] the credit union's first year of
- 77 operation shall pay a basic fee of \$25 instead of the fee required under Subsection (1).
- 78 (4) A trust company that is not a depository institution or a subsidiary of a depository
- 79 institution holding company shall pay:
- 80 (a) an annual fee of \$500; and
- 81 (b) an additional fee determined in accordance with Subsection (7) for each examination
- 82 by a state examiner.
- 83 (5) Any person or institution under the jurisdiction of the department that does not pay a fee
- 84 under Subsections (1) through (4) shall pay:
- 85 (a) an annual fee of \$200; and
- 86 (b) an additional fee determined in accordance with Subsection (7) for each examination
- 87 by a state examiner.
- 88 (6) A person filing an application or request under Section 7-1-503, 7-1-702, 7-1-703,
- 89 7-1-704, 7-1-713, [~~7-5-3~~] 7-5-104, or 7-18a-202 shall pay:
- 90 (a)(i) a filing fee of \$500 if on the day on which the application or request is filed the
- 91 person:
- 92 (A) is a person with authority to transact business as a depository institution, a
- 93 trust company, or any other person described in Section 7-1-501 as being
- 94 subject to the jurisdiction of the department; and
- 95 (B) has total assets in an amount less than \$5,000,000; or
- 96 (ii) a filing fee of \$2,500 for any person not described in Subsection (6)(a)(i); and

97 (b) all reasonable expenses incurred in processing the application.

98 (7)(a) Per diem assessments for an examination shall be calculated at the rate of \$55 per  
99 hour:

100 (i) for each examiner; and

101 (ii) per hour worked.

102 (b) For an examination of a branch or office of a financial institution located outside of  
103 this state, in addition to the per diem assessment under this Subsection (7), the  
104 institution shall pay all reasonable travel, lodging, and other expenses incurred by  
105 each examiner while conducting the examination.

106 (8) In addition to a fee under Subsection (5), a person registering under Section 7-23-201,  
107 7-24-201, or 7-27-201 shall pay an original registration fee of \$300.

108 (9) In addition to a fee under Subsection (5), a person applying for licensure under Chapter  
109 25, Money Transmitter Act, shall pay an original license fee of \$300.

110 Section 2. Section **7-1-701** is amended to read:

111 **7-1-701 . Representing and transacting business as financial institution restricted**  
112 **-- Restricted names -- Penalty.**

113 (1) As used in this section, "transact business" includes[?]:

114 (a) advertising;

115 (b) representing oneself in any manner as being engaged in transacting business;

116 (c) registering an assumed name under which to transact business; or

117 (d) using an assumed business name, sign, letterhead, business card, promotion, or other  
118 indication that one is transacting business.

119 (2) Unless authorized by the department or an agency of the federal government to do so, it  
120 is unlawful for a person to:

121 (a) transact business as a:

122 (i) bank;

123 (ii) savings and loan association;

124 (iii) savings bank;

125 (iv) industrial bank;

126 (v) credit union;

127 (vi) trust company; or

128 (vii) other financial or depository institution; or

129 (b) engage in any other activity subject to the jurisdiction of the department.

130 (3)(a) Except as provided in Subsections (3)(b) through (d), only the following may

- 131 transact business in this state under a name that includes "bank," "banker," "banking,"  
132 "banque," "banc," "banco," "bancorp," "bancorporation," a derivative of these words,  
133 or another word or combination of words reasonably identifying the business of a  
134 bank:
- 135 (i) a national bank;
  - 136 (ii) a bank authorized to do business under Chapter 3, Banks;
  - 137 (iii) a bank holding company; or
  - 138 (iv) an industrial bank.
- 139 (b) A person authorized to operate in this state as a credit card bank, as described in  
140 Section 7-3-3:
- 141 (i) may transact business under the name "credit card bank"; and
  - 142 (ii) may not transact business under the name of "bank" unless it is immediately  
143 preceded by "credit card."
- 144 (c) A nonbank subsidiary of a bank holding company may transact business under a  
145 name restricted in Subsection (3)(a) if the name:
- 146 (i) is also part of the name of its parent holding company; or
  - 147 (ii) is used for a group of subsidiaries of the parent holding company.
- 148 (d) A bona fide trade association of authorized banks recognized by the commissioner  
149 may transact its affairs in this state under a name restricted under Subsection (3)(a) if  
150 it does not operate and does not hold itself out to the public as operating a depository  
151 or financial institution.
- 152 (4)(a) Except as provided in Subsection (4)(b), only the following may transact business  
153 in this state under a name that includes "savings association," "savings and loan  
154 association," "building and loan association," "building association," a derivative of  
155 these words, or another word or combination of words reasonably identifying the  
156 business of a savings and loan association:
- 157 (i) a federal savings and loan association; or
  - 158 (ii) a federal savings bank.
- 159 (b) A national bank may transact business under a name restricted in Subsection (4)(a) if  
160 the restricted words are part of the bank's corporate name.
- 161 (5) Only the following may transact business under the name "savings bank":
- 162 (a) a depository institution listed in Subsection (3)(a);
  - 163 (b) a depository institution listed in Subsection (4)(a); or
  - 164 (c) a depository institution authorized under the law of another state to operate in this

- 165 state as a savings bank.
- 166 (6)(a) Only an industrial loan company authorized to do business under Chapter 8,  
167 Industrial Banks, to the extent permitted by Section 7-8-21, may transact business in  
168 this state under a name that includes "industrial loan company," "ILC," or another  
169 word, combination of words, or abbreviation reasonably identifying the business of  
170 an industrial loan company.
- 171 (b) Only an industrial bank authorized to do business under Chapter 8, Industrial Banks,  
172 may transact business in this state under a name that includes "industrial bank,"  
173 "thrift," or another word, combination of words, or abbreviation reasonably  
174 identifying the business of an industrial bank.
- 175 (7)(a) Except as provided in Subsection (7)(b), only a credit union authorized to do  
176 business under the laws of the United States or Chapter 9, Utah Credit Union Act,  
177 may transact business in this state under a name that includes "credit union" or  
178 another word or combination of words reasonably identifying the business of a credit  
179 union.
- 180 (b) The restriction in Subsection (7)(a) does not apply to a bona fide trade association of  
181 authorized credit unions recognized by the commissioner, a credit union chapter, or  
182 another association affiliated with a bona fide trade association of authorized credit  
183 unions recognized by the commissioner that restricts its services primarily to credit  
184 unions.
- 185 (8)(a) Except as provided in Subsection (8)(b), only a person granted trust powers under  
186 Chapter 5, Trust Business, may transact business in this state under a name that  
187 includes "trust," "trustee," "trust company," or another word or combination of words  
188 reasonably identifying the business of a trust company.
- 189 (b) A business entity organized as a business trust, as defined in Section ~~[7-5-1]~~ 7-5-101,  
190 may use "business trust" in its name if it does not hold itself out as being a trust  
191 company.
- 192 (9) The restrictions of Subsections (3) through (8) do not apply to:
- 193 (a) the name under which an out-of-state depository institution operates a loan  
194 production office in this state, if the commissioner approves the name as not being  
195 reasonably likely to mislead the public;
- 196 (b) the name under which a service organization of a financial institution transacts  
197 business, if the commissioner approves the name as not being reasonably likely to  
198 mislead the public;

- 199 (c) the name under which a subsidiary of a depository or financial institution transacts  
200 business, if the commissioner approves the name as not being reasonably likely to  
201 mislead the public; or
- 202 (d) a trade association or other nonprofit organization composed of members of a  
203 particular class of financial institutions using words applicable to that class.
- 204 (10)(a) Upon written request, the commissioner may grant an exemption to this section  
205 if the commissioner finds that the use of an otherwise restricted name or word is not  
206 reasonably likely to cause confusion or lead the public to believe that the person  
207 requesting the exemption is a depository or financial institution or is conducting a  
208 business subject to the jurisdiction of the department.
- 209 (b) In granting an exemption under Subsection (10)(a), the commissioner may restrict or  
210 condition the use of the name or word or the activities of the person or business as the  
211 commissioner considers necessary to protect the public.
- 212 (11)(a) A person and a principal and officer of a business entity violating this section is  
213 guilty of a class A misdemeanor. Each day of violation constitutes a separate offense.
- 214 (b) In addition to a criminal penalty imposed under Subsection (11)(a), the  
215 commissioner may issue a cease and desist order against a person violating this  
216 section. The commissioner may impose a civil penalty of up to \$500 for each day the  
217 person fails to comply with the cease and desist order.
- 218 Section 3. Section **7-5-11** is amended to read:
- 219 **7-5-11 . Self-dealing with trust property -- Own stock as trust property -- Policies**  
220 **for dealing with trust securities.**
- 221 (1) Except as provided in Section [~~7-5-7~~] 7-5-109, in Title 75B, Trusts, or as authorized  
222 under the instrument creating the relationship, a trust company may not invest funds  
223 held as an agent or fiduciary in stock or obligations of, or with such funds acquire  
224 property from, the trust company or any of its directors, officers or employees, nor shall  
225 a trust company sell property held as an agent or fiduciary to the company or to any of  
226 its directors, officers, or employees.
- 227 (2) A trust company may retain and vote stock of the trust company or of any of its  
228 affiliates received by it as assets of any trust account or in any other fiduciary  
229 relationship of which it is appointed agent or fiduciary, unless the instrument creating  
230 the relationship otherwise provides.
- 231 (3)(a) Every trust company shall adopt written policies and procedures regarding  
232 decisions or recommendations to purchase or sell any security to facilitate

233 compliance with federal and state securities laws.

234 (b) ~~[-]~~These policies and procedures, in particular, shall prohibit the trust company from  
 235 using material inside information in connection with any decision or recommendation  
 236 to purchase or sell any security.

237 Section 4. Section **7-5-101**, which is renumbered from Section 7-5-1 is renumbered  
 238 and amended to read:

239 **Part 1. General Provisions**

240 **~~[7-5-1]~~ 7-5-101 . Definitions.**

241 ~~[(1)]~~ As used in this chapter:

242 ~~[(a)]~~ (1) "Business trust" means an entity engaged in a trade or business that is created by a  
 243 declaration of trust that transfers property to trustees, ~~[to be held and managed by them]~~  
 244 that the trustees hold and manage for the benefit of ~~[persons]~~ one or more persons  
 245 holding certificates representing the beneficial interest in the trust estate and assets.

246 (2) "Interested person" means the same as that term is defined in Section 75-1-201.

247 (3) "Personal representative" means the same as that term is defined in Section 75-1-201.

248 (4) "Power of direction" means the same as that term is defined in Section 75B-3-102.

249 ~~[(b)]~~ (5) "Trust" means the same as that term is defined in Section 75B-1-101.

250 ~~[(e)]~~ (6)(a) "Trust business" means~~[-, except as provided in Subsection (1)(d);]~~ a business  
 251 in which ~~[one]~~ a person acts in ~~[any]~~ an agency or a fiduciary capacity, including ~~[that~~  
 252 ~~of]~~ as a personal representative, an executor, an administrator, a conservator, a  
 253 guardian, an assignee, a receiver, a depository, or a trustee under appointment as  
 254 trustee for [any] a purpose permitted by law.

255 ~~[(d)]~~ (b) "Trust business" does not include the following means of holding money, assets,  
 256 or other property:

257 (i) money ~~[held]~~ that an attorney authorized to practice law in this state holds in a  
 258 client trust account~~[- by an attorney authorized to practice law in this state];~~

259 (ii) money ~~[held]~~ that a person licensed as a principal broker in accordance with Title  
 260 61, Chapter 2f, Real Estate Licensing and Practices Act, holds in connection with  
 261 the purchase or sale of real estate~~[- by a person licensed as a principal broker in~~  
 262 accordance with Title 61, Chapter 2f, Real Estate Licensing and Practices Act];

263 (iii) money or other assets ~~[held]~~ that a person the department, in accordance with  
 264 Chapter 22, Regulation of Independent Escrow Agents, authorizes to act as an  
 265 escrow agent or that the Insurance Department authorizes to act as an escrow  
 266 agent holds in escrow~~[- by a person authorized by the department in accordance~~

- 267 with Chapter 22, Regulation of Independent Escrow Agents, or by the Insurance  
 268 Department to act as an escrow agent in this state];
- 269 (iv) money ~~[held by a]~~ that a homeowners' association or similar organization holds to  
 270 pay maintenance and other related costs for commonly owned property;
- 271 (v) money ~~[held]~~ that a person, acting solely as the agent or representative or  
 272 otherwise at the sole direction of the person to which the debt or payment is owed,  
 273 holds in connection with the collection of debts or payments on loans~~[-by a person~~  
 274 ~~acting solely as the agent or representative or otherwise at the sole direction of the~~  
 275 ~~person to which the debt or payment is owed]~~, including money ~~[held by]~~ an  
 276 escrow agent holds for payment of taxes or insurance;
- 277 (vi) money ~~[and]~~ or other assets [held] that an individual holds in trust on an  
 278 occasional or isolated basis~~[-by a person who does not represent that the person is~~  
 279 ~~engaged in the trust business in Utah]~~ if the individual does not represent that the  
 280 individual engages in the trust business in this state;
- 281 (vii) money or other assets ~~[found by a court to be held]~~ that a court finds that a  
 282 person holds in an implied, resulting, or constructive trust;
- 283 (viii) money or other assets ~~[held by a court appointed conservator, guardian,~~  
 284 ~~receiver, trustee, or other fiduciary]~~ that a court-appointed conservator, guardian,  
 285 receiver, trustee, or other fiduciary holds if the court-appointed conservator,  
 286 guardian, receiver, trustee, or other fiduciary:
- 287 (A)(I) ~~[the conservator, receiver, guardian, trustee, or other fiduciary]~~ is  
 288 responsible to the court in the same or similar manner as a personal  
 289 representative under Title 75, Chapter 3, Part 5, Supervised Administration,  
 290 or as a receiver under Rule 66, Utah Rules of Civil Procedure; and
- 291 ~~[(B)]~~ (II) ~~[the conservator, trustee, or other fiduciary]~~ is a certified public  
 292 accountant,~~[-or has qualified for and received a designation as]~~ a certified  
 293 financial planner, chartered financial consultant, or certified financial  
 294 analyst[-];  
 295 or
- 295 (B) ~~[-similar designation suitable to the court, that evidences the conservator's,~~  
 296 ~~trustee's, or other fiduciary's professional competence to manage financial~~  
 297 ~~matters]~~ demonstrates to the satisfaction of the court a level of competence  
 298 necessary to carry out, manage, and oversee the financial and fiduciary duties  
 299 that will reasonably be required of the court-appointed conservator, guardian,

- 300 receiver, trustee, or other fiduciary;
- 301 (ix) money or other assets that a court-appointed trustee or personal representative
- 302 holds, if the court-appointed trustee or personal representative:
- 303 (A) has the consent and approval of the majority of the current permissible
- 304 distributees of trust income and principal at the time of appointment or the
- 305 interested persons in the estate at the time of appointment; or
- 306 (B) otherwise demonstrates to the satisfaction of the court a level of competence
- 307 necessary to carry out, manage, or oversee the financial and fiduciary duties
- 308 that are reasonably required of the trustee or personal representative;
- 309 [~~(ix)~~] (x) money or other assets [held by] that a credit services organization operating
- 310 in compliance with Title 13, Chapter 21, Credit Services Organizations Act, holds;
- 311 [~~(x)~~] (xi) money, securities, or other assets [held in] that a customer account in
- 312 connection with the purchase or sale of securities by a regulated securities broker,
- 313 dealer, or transfer agent holds;[~~or~~]
- 314 [~~(xi)~~] (xii) money, assets, and other property [held] that a person holds in a business
- 315 trust for the benefit of holders of certificates of beneficial interest if the fiduciary
- 316 activities of the business trust are merely incidental to conducting business in the
- 317 business trust form[.];
- 318 (xiii) a person exercising a fiduciary or non-fiduciary power, including power of
- 319 direction, while acting as a trust director, trust protector, trust advisor, or a similar
- 320 capacity;
- 321 (xiv) a person acting as a surrogate under Title 75A, Chapter 9, Uniform Health Care
- 322 Decisions Act, or in a similar capacity; or
- 323 (xv) services as a guardian, if:
- 324 (A) the guardian's ward is a protected person with an appointed conservator that
- 325 serves with the guardian; or
- 326 (B) the responsibilities, powers, and authorities of the guardian are limited and
- 327 non-financial in nature.
- 328 [(e)] (7) "Trust company" means [~~an institution~~] a person authorized to engage in [~~the~~] trust
- 329 business under this chapter.[~~Only the following may be a trust company:~~]
- 330 [(i) ~~a Utah depository institution or its wholly owned subsidiary;~~]
- 331 [(ii) ~~an out-of-state depository institution authorized to engage in business as a~~
- 332 ~~depository institution in Utah or its wholly owned subsidiary;]~~
- 333 [(iii) ~~a corporation, including a credit union service organization, owned entirely by~~

334 one or more federally insured depository institutions as defined in Subsection  
 335 7-1-103(8);]  
 336 [(iv) a direct or indirect subsidiary of a depository institution holding company that  
 337 also has a direct or indirect subsidiary authorized to engage in business as a  
 338 depository institution in Utah; and]  
 339 [(v) any other corporation continuously and lawfully engaged in the trust business in  
 340 this state since before July 1, 1981.]

341 (8) "Trust director" means the same as that term is defined in Section 75B-3-102.

342 [(2) Only a trust company may engage in the trust business in this state.]

343 [(3) The requirements of this chapter do not apply to:]

344 [(a) an institution authorized to engage in a trust business in another state that is engaged  
 345 in trust activities in this state solely to fulfill its duties as a trustee of a trust created  
 346 and administered in another state;]

347 [(b) a national bank, federal savings bank, federal savings and loan association, or  
 348 federal credit union authorized to engage in business as a depository institution in  
 349 Utah, or any wholly owned subsidiary of any of these, to the extent the institution is  
 350 authorized by its primary federal regulator to engage in the trust business in this state;  
 351 or]

352 [(e) a state agency that is otherwise authorized by statute to act as a conservator,  
 353 receiver, guardian, trustee, or in any other fiduciary capacity.]

354 Section 5. Section **7-5-102** is enacted to read:

355 **7-5-102 . Allowable trust companies -- Exceptions.**

356 (1) Only the following may be a trust company:

357 (a) a Utah depository institution or the Utah depository institution's wholly owned  
 358 subsidiary;

359 (b) an out-of-state depository institution authorized to engage in business as a depository  
 360 institution in this state or the out-of-state depository institution's wholly owned  
 361 subsidiary;

362 (c) a corporation, including a credit union service organization, owned entirely by one or  
 363 more federally insured depository institutions as defined in Subsection 7-1-103(8);

364 (d) a direct or indirect subsidiary of a depository institution holding company that also  
 365 has a direct or indirect subsidiary authorized to engage in business as a depository  
 366 institution in this state; and

367 (e) any other corporation continuously and lawfully engaged in the trust business in this

368 state since before July 1, 1981.

369 (2) Only a trust company may engage in the trust business in this state.

370 (3) The requirements of this chapter do not apply to:

371 (a) an institution authorized to engage in trust business in another state that engages in  
 372 trust activities in this state solely to fulfill the institution's duties as a trustee of a trust  
 373 created and administered in another state;

374 (b) a national bank, federal savings bank, federal savings and loan association, or federal  
 375 credit union authorized to engage in business as a depository institution in this state,  
 376 or a wholly owned subsidiary of a national bank, federal savings bank, federal  
 377 savings and loan association, or federal credit union authorized to engage in business  
 378 as a depository institution in this state, to the extent the institution is authorized by  
 379 the institution's primary federal regulator to engage in trust business in this state; or

380 (c) a state agency that is otherwise authorized by statute to act as a conservator, receiver,  
 381 guardian, trustee, or in any other fiduciary capacity.

382 Section 6. Section **7-5-103**, which is renumbered from Section 7-5-2 is renumbered  
 383 and amended to read:

384 **[7-5-2] 7-5-103 . Permit required to engage in trust business -- Exceptions.**

385 (1)(a) ~~[No]~~ Unless a trust company [shall] obtains from the commissioner a permit to  
 386 engage in trust business in this state, the trust company may not accept [any] an  
 387 appointment to act in [any] an agency or a fiduciary capacity by order or judgment of  
 388 a court or by authority of any law of this state, including [that of] as a:

389 (i) personal representative[-] ;

390 (ii) executor[-] ;

391 (iii) administrator[-] ;

392 (iv) conservator[-] ;

393 (v) guardian[-] ;

394 (vi) assignee[-] ;

395 (vii) receiver[-] ;

396 (viii) depository[-] ; or[-]

397 (ix) trustee[-under order or judgment of any court or by authority of any law of this  
 398 state or as trustee for any purpose permitted by law or otherwise engage in the  
 399 trust business in this state, unless and until it has obtained from the commissioner  
 400 a permit to act under this chapter.-] .

401 (b) This ~~[provision]~~ Subsection (1) does not apply to [any] a bank or other corporation

402 authorized to engage and lawfully engaged in the trust business in this state before  
403 July 1, 1981.

404 (2) Nothing in this chapter prohibits:

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

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

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

419 (d) ~~[any]~~ a depository institution from holding in an agency or fiduciary capacity  
420 individual retirement accounts or Keogh plan accounts established under ~~[Section~~  
421 ~~401(a) or 408(a) of Title 26 of the United States Code]~~ 26 U.S.C. Sec. 401(a) or 26  
422 U.S.C. Sec. 408(a).

423 Section 7. Section **7-5-104**, which is renumbered from Section 7-5-3 is renumbered  
424 and amended to read:

425 **[7-5-3] 7-5-104 . Application for authorization to engage in trust business --**  
426 **Criteria for granting -- Authority of trust company.**

427 (1) A person seeking authorization to become a trust company and engage in ~~[the]~~trust  
428 business in this state shall~~[-]~~ :

429 (a) file an application with the commissioner in the manner provided in Section 7-1-704~~[-]~~ ;  
430 ~~and[-shall]~~

431 (b) pay the fee ~~[prescribed]~~ described in Section 7-1-401.

432 (2) ~~[The commissioner shall, in]~~ When deciding whether ~~[or not]~~to approve ~~[the~~  
433 ~~application, take into account]~~ an application described in Subsection (1), the  
434 commissioner shall consider:

435 (a) the character and condition of the applicant's assets;

- 436 (b) the adequacy of ~~[its]~~ the applicant's capital;
- 437 (c) ~~[its-]~~ the applicant's earnings record;
- 438 (d) the quality of ~~[its]~~ the applicant's management;
- 439 (e) the qualifications of ~~[any person proposed]~~ an individual the applicant proposes to be  
440 an officer in charge of the trust operations;
- 441 (f) the needs of the community for fiduciary services;
- 442 (g) the volume of business that the applicant will probably do; and
- 443 (h) any other relevant facts and circumstances, including the availability of legal counsel  
444 to advise and pass upon matters relating to the trust business.
- 445 (3) The commissioner may not apply criteria ~~[making it]~~ that makes the process to obtain  
446 approval to engage in trust business in this state more difficult for a state chartered  
447 depository institution [to obtain approval to engage in the trust business-] than for a  
448 federally chartered depository institution of the same class.
- 449 (4) ~~[The-]~~ Notwithstanding Subsection (3), the commissioner may impose [such conditions]  
450 criteria the commissioner considers appropriate to protect the public interest when  
451 authorizing a person to engage in [the-] trust business [as the commissioner considers  
452 appropriate to protect the public interest].
- 453 (5) Upon receiving authorization from the commissioner to become a trust company and  
454 engage in ~~[the-]~~ trust business, the trust company ~~[is qualified to]~~ may act as fiduciary in  
455 any capacity without bond.

456 Section 8. Section **7-5-105**, which is renumbered from Section 7-5-4 is renumbered  
457 and amended to read:

458 **[7-5-4] 7-5-105 . Withdrawal from trust business.**

- 459 (1) ~~[ Any]~~ A trust company ~~[which]~~ that desires to withdraw from and discontinue doing [  
460 a-] trust business shall furnish to the commissioner satisfactory evidence of ~~[its]~~ the trust  
461 company's release and discharge from all the obligations and trusts ~~[undertaken by it,  
462 and-] the trust company undertakes.~~
- 463 (2) ~~[after the company has furnished that evidence-]~~ After the trust company provides the  
464 evidence required by Subsection (1) to the commissioner, the commissioner shall revoke [  
465 his certificate of authority-] the trust company's permit to [do a] engage in trust business [  
466 previously issued to that trust company, and-] in this state.
- 467 (3) ~~[thereafter that-]~~ After the commissioner revokes a trust company's permit in accordance  
468 with Subsection (2), the trust company may not[-] :
- 469 (a) ~~[be permitted to use and may not-]~~ use the word "trust" in ~~[its]~~ the trust company's

470 corporate name or in connection with [its] the trust company's business~~[-nor]~~ ; or  
 471 (b) undertake the administration of any trust business.

472 Section 9. Section **7-5-106**, which is renumbered from Section 7-5-5 is renumbered  
 473 and amended to read:

474 **[7-5-5] 7-5-106 . Revocation of trust authority -- Procedure -- Violations.**

475 (1)(a) The commissioner may issue and serve upon a trust company a notice of intent to  
 476 revoke the authority of the trust company to exercise the powers granted by this  
 477 chapter, if, in the commissioner's opinion, the trust company:

- 478 (i) is unlawfully or unsoundly exercising the powers granted under this chapter;
- 479 (ii) has unlawfully or unsoundly exercised the powers granted under this chapter;
- 480 (iii) has failed, for a period of five consecutive years, to exercise the powers granted  
 481 by this chapter;
- 482 (iv) fails or has failed to comply with requirements upon which [its] the trust  
 483 company's permit is conditioned; or
- 484 (v) fails or has failed to comply with any rule of the commissioner.

485 (b) The notice shall:

- 486 (i) contain a statement of the facts constituting the alleged unlawful or unsound  
 487 exercise of powers, or failure to exercise powers, or failure to comply; and
- 488 (ii) fix the time and place at which the commissioner shall hold a hearing [~~will be~~  
 489 ~~held~~]to determine whether the commissioner should issue an order revoking  
 490 authority to execute [~~those~~] the powers [~~should issue against the trust company~~]  
 491 described in the notice.

492 (2)(a) If the trust company or [its] the trust company's representative does not appear at  
 493 the hearing, the commissioner may consider the trust company to be in default, and  
 494 may issue a revocation order.

- 495 (b) If default has occurred, or if upon the record made at any hearing the commissioner  
 496 finds that any allegation specified in the notice of charges has been established, the  
 497 commissioner shall issue and serve upon the trust company [~~an~~] a revocation order:  
 498 (i) prohibiting [~~it~~] the trust company from accepting any new or additional trust  
 499 accounts; and
- 500 (ii) revoking [its] the trust company's authority to exercise any powers granted under  
 501 this chapter.

502 (c) Any order issued under this section permits the trust company to continue to service  
 503 all previously accepted trust accounts pending [~~their~~] the trust accounts' expeditious

- 504           divestiture or termination.
- 505       (3) A revocation order [~~shall become~~] becomes effective 30 days after [~~service of the order~~  
506       upon] the day on which the commissioner serves the revocation order to the trust  
507       company and [~~shall remain~~] remains effective and enforceable, unless [~~it is stayed,~~  
508       ~~modified, terminated, or set aside by action of the commissioner or by judicial review as~~  
509       ~~provided for in Section 7-1-714.~~] the commissioner or a court, in accordance with  
510       Section 7-1-714, stays, modifies, terminates, or sets aside the revocation order.
- 511       (4) If an attorney described in Subsection 7-5-101(4)(b)(iii) violates Title 75B, Trusts, the  
512       attorney:
- 513           (a) is not subject to enforcement by the commissioner or the department; and  
514           (b) may be subject to disciplinary action generally applicable to an attorney licensed to  
515           practice in this state.
- 516       (5) If a certified public accountant described in Subsection 7-5-101(4)(b)(iv) violates Title  
517       75B, Trusts, the certified public accountant:
- 518           (a) is not subject to enforcement by the commissioner or the department; and  
519           (b) may be subject to disciplinary action under Title 58, Chapter 26a, Certified Public  
520           Accountant Licensing Act.
- 521       (6) If the commissioner or the department receives a complaint that an attorney described in  
522       Subsection 7-5-101(4)(b)(iii) or a certified public accountant described in Subsection  
523       7-5-101(4)(b)(iv) violates Title 75B, Trusts, the commissioner or the department shall  
524       forward the complaint to:
- 525           (a) if the complaint involves an attorney, the Utah State Bar; or  
526           (b) if the complaint involves a certified public accountant, the Division of Professional  
527           Licensing.
- 528       Section 10. Section **7-5-107**, which is renumbered from Section 7-5-6 is renumbered  
529       and amended to read:
- 530           **[7-5-6] 7-5-107 . Confidentiality of communications and writings concerning**  
531       **trust -- Actions to protect property or authorized under probate laws not precluded.**
- 532       (1) [ ~~Any~~] A trust company exercising the powers and performing the duties described in  
533       this chapter shall keep [~~inviolate all communications and writings made to or by that]~~  
534       confidential each communication and writing the trust company makes or receives  
535       relating to the existence, condition, management or administration of [~~any~~] an agency or  
536       fiduciary account confided to [~~it and~~] the trust company.
- 537       (2) [~~no~~] A creditor or stockholder of [~~any such~~] a trust company [~~shall be~~] is not entitled to

538 disclosure or knowledge of ~~[any such]~~ a communication or writing described in  
 539 Subsection (1), [except that the-] unless the creditor or stockholder is:  
 540 (a) ~~[directors,]~~ a director of the trust company;  
 541 (b) a president[-] of the trust company;  
 542 (c) a vice president[-] of the trust company;  
 543 (d) a manager[-] employed by the trust company;  
 544 (e) a treasurer[-and-] employed by the trust company;  
 545 (f) a trust [officers, and any-] officer of the trust company;  
 546 (g) ~~[employees]~~ an employee of the trust company assigned to work on the trust business[-] ;  
 547 (h) ~~[and the]~~ an attorney employed by the trust company; or[-]  
 548 (i) an auditor employed by [it shall be entitled to knowledge of any such communication  
 549 or writing and except-] the trust company.

550 (3) ~~[that in any suit or-]~~ In a proceeding relating to the existence, condition, management or  
 551 administration of [the] an account described in Subsection (1), [the court in which the  
 552 suit is pending may] a court may require disclosure of [any such] the communication or  
 553 writing.

554 (4) ~~[-A]~~ Nothing in this section precludes a trust company [is not, however, precluded-] from  
 555 filing an action in court to protect trust account property or as authorized under Title  
 556 75B, Trusts.

557 Section 11. Section **7-5-108**, which is renumbered from Section 7-5-7 is renumbered  
 558 and amended to read:

559 **[7-5-7] 7-5-108 . Management and investment of trust money.**

560 (1) ~~[Money received or held by a trust company as agent or fiduciary, whether for~~  
 561 ~~investment or distribution, shall be invested or distributed as soon as practicable]~~ A trust  
 562 company shall invest or distribute money the trust company receives or holds as an  
 563 agent or a fiduciary, whether for investment or distribution, as soon as practicable as  
 564 authorized under the instrument creating the account[-and-] .

565 (2) A trust company may not [be held uninvested] hold the money described in Subsection  
 566 (1) without investing the money for any longer than is reasonably necessary.

567 ~~[(2)]~~ (3) If the instrument creating an agency or fiduciary account [contains provisions  
 568 authorizing] authorizes the trust company, [its] the trust company's officers, or [its] the  
 569 trust company's directors to exercise[-their] discretion [in the matter of] over investments,  
 570 the trust company, the trust company's officers, or the trust company's directors may  
 571 invest money [held] the trust company holds in the trust account under that instrument [

572 ~~may be invested~~ only in ~~[those classes]~~ a class of securities ~~[which are approved by the~~  
 573 ~~directors of the trust company or a committee of directors appointed for that purpose]~~  
 574 that the directors of the trust company, or a committee of directors that the directors  
 575 appoint, approve.~~[-]~~

576 (4) If a trust company acts in ~~[any]~~ an agency or a fiduciary capacity under appointment by a  
 577 court with jurisdiction, ~~[it]~~ the trust company shall make and account for the investments  
 578 according to Title 75B, Trusts, unless the underlying instrument provides otherwise.

579 ~~[(3)]~~ (5)(a) ~~[Money received or held]~~ A trust company that is also a depository institution  
 580 may deposit into the trust company's commercial department or savings department  
 581 money that the trust company holds or receives as an agent or a fiduciary ~~[by any~~  
 582 ~~trust company which is also a depository institution,]~~ whether for investment or  
 583 distribution, ~~[may be deposited in the commercial department or savings department~~  
 584 ~~of that trust company]~~ to the credit of ~~[its]~~ the trust company's trust department.~~[-]~~

585 (b) ~~[Whenever the money so deposited in]~~ When the money that a trust company  
 586 deposits, in accordance with Subsection (5)(a), into a fiduciary or managing agency  
 587 account ~~[exceed]~~ exceeds the amount of federal deposit insurance applicable to that  
 588 fiduciary or managing agency account, the trust company shall deliver to the trust  
 589 department or put under ~~[its]~~ the trust department's control collateral security as [  
 590 ~~outlined]~~ described in ~~[Regulation 9.10 of the Comptroller of the Currency]~~ 12 C.F.R.  
 591 Sec. 9.10.

592 (c) ~~[-However, if]~~ If the instrument ~~[creating such]~~ that creates a fiduciary or managing  
 593 agency account described in Subsection (5)(b) expressly provides that a trust  
 594 company may deposit money ~~[may be deposited to]~~ into the commercial or savings  
 595 department of the trust company~~[-then]~~ :

596 (i) the trust company may deposit the money ~~[may be so deposited]~~ without setting  
 597 aside collateral securities as required under this section; and~~[-]~~

598 (ii) ~~[the deposits]~~ in the event of insolvency, a deposit of ~~[any such]~~ the trust company  
 599 shall be treated as other general deposits are treated.

600 (d) ~~[-]~~ A trust company that deposits trust funds ~~[in its]~~ into the trust company's  
 601 commercial or savings department ~~[shall be]~~ is liable for interest on the deposits only  
 602 at the rates, if any, ~~[paid by the trust company]~~ the trust company pays on deposits of  
 603 like kind not made to the credit of ~~[its]~~ the trust company's trust department.

604 ~~[(b)]~~ (6)(a) ~~[Money received or held]~~ A trust company may deposit in an affiliated  
 605 depository institution money that a trust company receives or holds as agent or

606 fiduciary~~[ by a trust company]~~, whether for investment or distribution~~[, may be~~  
 607 ~~deposited in an affiliated depository institution]~~.

608 (b) ~~[ Whenever the money so deposited in ]~~ If money that a trust company deposits, in  
 609 accordance with Subsection (6)(a), into a fiduciary or managing agency account [  
 610 exceed] exceeds the amount of federal deposit insurance applicable to that account,  
 611 the depository institution shall deliver to the trust company or put under ~~[its] the trust~~  
 612 company's control collateral security as [outlined in Regulation 9.10 of the  
 613 Comptroller of the Currency] described in 12 C.F.R. Sec. 9.10.

614 (c) ~~[ However, if ]~~ If the instrument [creating] that creates the fiduciary or managing  
 615 agency account described in Subsection (6)(b) expressly permits the trust company to  
 616 deposit money [to be deposited in] into the affiliated depository institution[-] :

617 (i) the trust company may deposit money [may be so deposited-] without setting aside  
 618 collateral securities [as required under] in accordance with this section; and[-]

619 (ii) [deposits-] in the event of insolvency of the depository institution, deposits the  
 620 trust company makes shall be treated as other general deposits are treated.

621 (d) ~~[-]~~ A trust company that deposits trust money [in] into an affiliated depository  
 622 institution is liable for interest on the deposits only at the rates, if any, [paid by-] the  
 623 depository institution pays on deposits of like kind.

624 ~~[(4)]~~ (7) In carrying out all aspects of [its] the trust company's trust business, a trust company [  
 625 shall have] has all the powers, privileges, and duties as set forth in Sections 75B-2-813  
 626 and 75B-2-814 with respect to trustees, whether [or not-] the trust company [is acting] acts  
 627 as a trustee as defined in Section 75B-1-101.

628 ~~[(5)]~~ (8) Nothing in this section may alter, amend, or limit the powers of a trust company  
 629 acting in a fiduciary capacity as specified in the particular instrument or order creating  
 630 the fiduciary relationship.

631 Section 12. Section **7-5-109**, which is renumbered from Section 7-5-8 is renumbered  
 632 and amended to read:

633 **[7-5-8] 7-5-109 . Segregation of trust assets -- Books and records required --**  
 634 **Examination -- Trust property not subject to claims or debts against trust company.**

635 (1) A trust company exercising the powers to act as an agent or fiduciary under this  
 636 chapter shall[-] :

637 (a) segregate all assets [held] the trust company holds in any agency or fiduciary capacity  
 638 from the general assets of the trust company; and[-shall-]

639 (b) keep a separate set of books and records showing in proper detail [all transactions

640 engaged in under authority of] each transaction in which the trust company engages in  
 641 accordance with this chapter.

642 (2) [~~These books and records shall be open to inspection by the commissioner and shall be~~  
 643 ~~examined by him or by examiners appointed by him as provided in Chapter 1, General~~  
 644 ~~Provisions, or examined by other appropriate regulating agencies or both] The trust  
 645 company shall allow the commissioner, an examiner the commissioner appoints in  
 646 accordance with Chapter 1, General Provisions, and an appropriate regulating agency to  
 647 inspect books and records described in Subsection (1).~~

648 (3) [~~Property [held] the trust company holds in an agency or fiduciary capacity [by a trust~~  
 649 ~~company]~~is not subject to claims or debts against the trust company.

650 Section 13. Section **7-5-110**, which is renumbered from Section 7-5-9 is renumbered  
 651 and amended to read:

652 **[7-5-9] 7-5-110 . Registration of investment in name of nominee -- Records --**  
 653 **Possession of investment.**

654 (1) As used in this section, "security" means the same as that term is defined in Section  
 655 75-1-201.

656 [(1)] (2) A trust company may [~~cause any~~] require that a person register and hold a security;  
 657 as defined in Section 75-1-201, held in its] that the trust company holds in the trust  
 658 company's agency or fiduciary capacity [to be registered and held] in the name of a  
 659 nominee or nominees of the trust company.

660 (3) [~~The trust company [shall be] is liable for the acts of [any such] a nominee described in~~  
 661 Subsection (2) with respect to any investment [so registered] registered in accordance  
 662 with Subsection (2).]

663 (4) [~~Investments] An investment other than [securities] a security held in the name of a~~  
 664 nominee on June 30, 1981, may continue to be held in that manner.

665 [(2)] (5) [~~The records of the] For an investment described in Subsection (4), the trust  
 666 company shall:~~

667 (a) [~~at all times maintain records that show the trust company's ownership of [any such]~~  
 668 an investment];

669 (b) [~~which investment shall be in the] maintain possession or control [of the trust  
 670 company] over the investment; and~~

671 (c) [~~be kept] keep the investment separate and apart from the assets of the trust  
 672 company.~~

673 Section 14. Section **7-5-111**, which is renumbered from Section 7-5-10 is renumbered

674 and amended to read:

675 ~~[7-5-10]~~ **7-5-111 . Lending trust funds to trust company, officer, director, or**  
 676 **employee a felony.**

677 (1) Except as provided in Subsection (2), a trust company may not lend funds that the trust  
 678 company holds in a trust account in accordance with this chapter to:

679 (a) the trust company;

680 (b) an officer of the trust company;

681 (c) a director of the trust company; or

682 (d) an employee of the trust company.

683 (2) ~~[Unless-]~~ A trust company may lend funds to a person described in Subsection (1) if:

684 (a) ~~[expressly permitted in-]~~ the instrument creating a trust account authorizes the trust  
 685 company to lend funds to the person;

686 (b) ~~[or by-]~~ a person authorized to [give that permission] grant authorization to the trust  
 687 company to lend funds to the person grants authorization; or

688 (c) ~~[by a court order as permitted in-]~~ a court issues an order in accordance with Section  
 689 75B-2-802[,- a trust company may not lend to itself or to any officer or director or  
 690 employee of the trust company any funds held in any trust account under the powers  
 691 conferred in this chapter].

692 ~~[(2)]~~ (3) ~~[Any-]~~ An officer, a director, or an employee [making such a loan] is guilty of a third  
 693 degree felony if the officer, director, or employee:

694 (a) ~~[;-]~~ makes a loan in violation of Subsection (1); or[-]

695 (b) ~~[to whom such a loan is made, is guilty of a third-degree felony]~~ receives a loan that  
 696 violates Subsection (1).

697 Section 15. Section **7-5-112**, which is renumbered from Section 7-5-11 is renumbered  
 698 and amended to read:

699 ~~[7-5-11]~~ **7-5-112 . Self-dealing with trust property -- Own stock as trust property**  
 700 **-- Policies for dealing with trust securities.**

701 (1) Except as provided in Section ~~[7-5-7]~~ **7-5-109**, ~~[in-]~~ Title 75B, Trusts, or as authorized  
 702 under the instrument creating the relationship, a trust company may not[-] :

703 (a) invest funds ~~[held]~~ the trust company holds as an agent or fiduciary in stock or  
 704 obligations of~~[-, or with such funds acquire property from,]~~ the trust company or any  
 705 of ~~[its]~~ the trust company's directors, officers or employees~~[-, nor shall]~~ ;

706 (b) use funds the trust company holds as an agent or fiduciary to acquire property from  
 707 the trust company or any of the trust company's directors, officers, or employees; or

708 (c) ~~[a trust company]~~ sell property ~~[held]~~ the trust company holds as an agent or  
 709 fiduciary to the ~~[company]~~ trust company or to any of ~~[its]~~ trust company's directors,  
 710 officers, or employees.

711 (2) A trust company may retain and vote stock of the trust company or of any of ~~[its]~~ the  
 712 trust company's affiliates ~~[received by it]~~ the trust company receives as assets of any trust  
 713 account or in any other fiduciary relationship ~~[of]~~ for which ~~[it]~~ the trust company is  
 714 appointed agent or fiduciary, unless the instrument creating the relationship otherwise  
 715 provides.

716 (3)(a) ~~[Every]~~ A trust company shall adopt written policies and procedures regarding  
 717 decisions or recommendations to purchase or sell ~~[any]~~ a security ~~[to facilitate~~  
 718 compliance] in accordance with federal and state securities laws.~~[-]~~

719 (b) ~~[These policies and procedures, in particular,]~~ The policies and procedures described  
 720 in Subsection (3)(a) shall prohibit the trust company from using material inside  
 721 information in connection with any decision or recommendation to purchase or sell  
 722 any security.

723 Section 16. Section **7-5-113**, which is renumbered from Section 7-5-12 is renumbered  
 724 and amended to read:

725 **[7-5-12] 7-5-113 . Directors' audit of trust business -- Report available to**  
 726 **commissioner or examiners -- Examinations in lieu of audit.**

727 (1) A committee of the board of directors, ~~[exclusive of]~~ excluding any active officers  
 728 of the trust department, of every trust company ~~[authorized to engage in the trust~~  
 729 business in this state] shall, at least once during a 15-month period~~[-]~~ :

730 (a)(i) ~~[make a suitable]~~ conduct an audit of the trust business operations of the [  
 731 institution] trust company; or

732 (ii) ~~[-]~~ cause that auditors responsible only to the board of directors conduct a suitable  
 733 audit~~[to be made by auditors responsible only to the board of directors]~~ ; and~~[-]~~

734 (b) ~~[shall]~~ using the findings from the audit, ascertain whether the trust company  
 735 conducts the trust business operations of the ~~[institution have been administered]~~ trust  
 736 business in accordance with law and sound fiduciary principles.

737 (2) ~~[A]~~ Upon request, the committee of the board of directors shall make available a report  
 738 of the audit described in Subsection (1), ~~[together with the action taken thereon]~~  
 739 including any action the committee of the board of directors takes as a result of the audit, [  
 740 shall be made available] to the commissioner, the commissioner's examiners, or the  
 741 examiners of other trust company regulating agencies~~[upon request]~~.

742 (3) ~~[An examination by the state or other trust company regulating agencies or both made~~  
 743 ~~during the same period may be substituted for this audit.]~~ The requirements of  
 744 Subsection (1) do not apply if the state or other agency that regulates trust companies  
 745 conducts an examination of the trust company during the same 15-month period.

746 Section 17. Section **7-5-114**, which is renumbered from Section 7-5-13 is renumbered  
 747 and amended to read:

748 **[7-5-13] 7-5-114 . Collective investment funds.**

749 (1) A ~~[person authorized to engage in the trust business in this state]~~ trust company may:

750 (a) establish collective investment funds that authorize participation by fiduciary or trust  
 751 accounts of the trust company, ~~[its]~~ the trust company's affiliates, or both; and

752 (b) participate in collective investment funds established by an affiliate of the trust  
 753 company, if:

754 (i) the affiliate is authorized under the laws of ~~[its]~~ the trust company's chartering  
 755 authority to establish a collective investment fund in which ~~[its]~~ the trust company's  
 756 affiliates may participate; and

757 (ii) the plan establishing the collective investment fund specifically authorized the  
 758 participation.

759 (2) ~~[Funds held by a trust company may be invested]~~ A person may invest funds that a trust  
 760 company holds collectively in a collective investment fund in accordance with the rules  
 761 prescribed by the appropriate governmental regulatory agency or agencies, if ~~[this-]~~ the  
 762 instrument, judgment, decree, or order creating the regulatory relationship does not  
 763 specifically prohibit the investment~~[is not specifically prohibited under the instrument,~~  
 764 ~~judgment, decree, or order creating the regulatory relationship].~~

765 (3)(a) Unless ordered to do so by a court, a trust company operating collective  
 766 investment funds is not required to render a court accounting ~~[with regard to those~~  
 767 ~~funds]~~ for the collective investment funds.

768 (b) ~~[but the-]~~ A trust company may petition a court with jurisdiction under Title 78A,  
 769 Judiciary and Judicial Administration, to secure approval of ~~[such an]~~ a court  
 770 accounting on ~~[such conditions as the court may establish]~~ conditions the court  
 771 establishes.

772 (4) This section applies to all relationships in existence on or after May 1, 1989.

773 Section 18. Section **7-5-115**, which is renumbered from Section 7-5-14 is renumbered  
 774 and amended to read:

775 **[7-5-14] 7-5-115 . Mergers, consolidations, acquisitions, transfers, or**

776 **reorganizations involving entities engaged in trust business -- Succession of rights and**  
777 **duties -- Petition for appointment of another trust company.**

778 (1) As used in this section:

779 (a) "Eligible trust company" means any of the following that is authorized under this  
780 chapter or the laws of the United States to engage in the trust business in this state:

781 (i) a trust company;

782 (ii) a depository institution; or

783 (iii) a corporation.

784 (b) "Reorganization" [~~includes~~] means:

785 (i) the creation by a trust company of a subsidiary corporation that is:

786 (A) wholly owned by that trust company; and

787 (B) organized solely for the purpose of conducting all or any portion of the trust  
788 business of that trust company; or

789 (ii) [~~any~~] a merger or other combination between a trust company and:

790 (A) a wholly owned trust company subsidiary of that trust company; or

791 (B) a wholly owned trust company subsidiary of the depository institution holding  
792 company [~~which~~] that owns or controls that trust company.

793 (2) Notwithstanding any provision of law to the contrary, an eligible trust company may,  
794 subject to Sections 7-1-702, 7-1-704, and 7-1-705:

795 (a)(i) merge or consolidate with another eligible trust company;

796 (ii) acquire control of another eligible trust company;

797 (iii) acquire all or a portion of the assets and trust business of another eligible trust  
798 company;

799 (iv) assume all or any portion of the liabilities of another eligible trust company;

800 (v) transfer control to another eligible trust company;

801 (vi) transfer all or a portion of [~~its~~] the trust company's assets and trust business to  
802 another eligible trust company; or

803 (vii) transfer all or a portion of [~~its~~] the trust company's liabilities to another eligible  
804 trust company; or

805 (b) [~~reorganize~~] conduct a reorganization.

806 (3)(a) Subject to Subsection (3)(b), upon final approval by the commissioner of [~~any~~] a  
807 merger, a consolidation, an acquisition of control, an acquisition of assets, an  
808 assumption of liabilities, or a reorganization, and upon written notice of [~~this~~] the final  
809 approval to [~~all persons~~] each person entitled to and then receiving trust accountings

810 from the transferring or reorganizing trust company, the resulting or acquiring trust  
811 company shall, without court proceedings or a court order, succeed to[-] :

812 (i) ~~[all]~~ the transferring or reorganizing trust company's rights, privileges, duties,  
813 obligations, and undertakings under all trust instruments, agency and fiduciary  
814 relationships and arrangements[-] ; and[-]

815 (ii) all other trust business the transferring or reorganizing trust company transferred  
816 and acquired in ~~[the manner authorized by]~~ accordance with this section.

817 (b)(i) Except as provided otherwise in the relevant trust instrument, ~~[any]~~ an  
818 interested person may, not more than 30 days after ~~[receipt of]~~ the day on which  
819 the interested person receives written notice of the merger, consolidation,  
820 acquisition, transfer, or reorganization, petition ~~[any]~~ a court ~~[of competent]~~ with  
821 jurisdiction to appoint another or succeeding trust company with respect to ~~[any]~~ an  
822 agency or fiduciary relationship affecting that interested person[-] .

823 (ii) ~~[and until]~~ Until the court appoints another or succeeding trust company~~[ is so~~  
824 appointed] in accordance with Subsection (3)(b)(i), the acquiring or resulting trust  
825 company ~~[is entitled to]~~ may act as agent or fiduciary with respect to the agency or  
826 fiduciary relationship.

827 Section 19. Section **7-5-116**, which is renumbered from Section 7-5-15 is renumbered  
828 and amended to read:

829 **~~[7-5-15]~~ 7-5-116 . Assets of trust company in possession of the commissioner.**

830 With respect to the assets of a trust company in the possession of the commissioner  
831 under Chapter 2, Possession of Depository Institution by Commissioner, notwithstanding any  
832 law to the contrary, the assets ~~[held by]~~ that the trust company holds in a fiduciary capacity as a  
833 part of ~~[its]~~ the trust company's trust business~~[-, as defined in Section 7-5-1,]~~ are not subject to  
834 the claims of ~~[any]~~ a secured or unsecured creditor of the trust company.

835 Section 20. Section **7-18a-302** is amended to read:

836 **7-18a-302 . Trust business.**

837 A foreign depository institution may not engage in the trust business, as that term is  
838 defined in Section ~~[7-5-1]~~ 7-5-101, in this state.

839 Section 21. Section **7-22-101** is amended to read:

840 **7-22-101 . Definitions -- Exemptions.**

841 (1) As used in this chapter:

842 (a) "Escrow" means an agreement, express or implied, that provides for one or more  
843 parties to deliver or entrust money, a certificate of deposit, a security, a negotiable

844 instrument, a deed, or other property or asset to another person to be held, paid, or  
845 delivered in accordance with terms and conditions prescribed in the agreement.

846 (b) "Escrow agent" means a person that provides or offers to provide escrow services to  
847 the public.

848 (c) "Nationwide database" means the Nationwide Mortgage Licensing System and  
849 Registry, authorized under 12 U.S.C. Sec. 5101 for federal licensing of mortgage  
850 loan originators.

851 (2) This chapter does not apply to:

852 (a) a trust company authorized to engage in the trust business in Utah in accordance with  
853 Chapter 5, Trust Business;

854 (b) a person other than an escrow agent regulated under this chapter that is exempted  
855 from the definition of trust business in [~~Subsection 7-5-1(1)~~] Section 7-5-101;

856 (c) a depository institution chartered by a state or the federal government that is engaged  
857 in business as a depository institution in Utah;

858 (d) the Utah Board of Higher Education, the Utah Higher Education Assistance  
859 Authority, or the [~~State Treasurer~~] state treasurer; and

860 (e) a person licensed under Title 31A, Insurance Code.

861 Section 22. Section **16-15-102** is amended to read:

862 **16-15-102 . Definition of business trust.**

863 As used in this chapter:

864 (1) "Beneficiary" means a person holding a certificate representing a beneficial interest in  
865 the trust estate and assets.

866 (2) "Business trust" [~~has the same meaning as~~] means the same as that term is defined in  
867 Section [~~7-5-1~~] 7-5-101.

868 (3) "Division" means the Division of Corporations and Commercial Code.

869 (4) "Person" means an individual, general partnership, limited liability partnership, limited  
870 partnership, limited liability company, limited association, domestic or foreign trust,  
871 estate, association, or corporation.

872 Section 23. Section **31A-23a-406** is amended to read:

873 **31A-23a-406 . Title insurance producer's business.**

874 (1) As used in this section:

875 (a) "Automated clearing house network" or "ACH network" means a national electronic  
876 funds transfer system regulated by the Federal Reserve and the Office of the  
877 Comptroller of the Currency.

- 878 (b) "Depository institution" means the same as that term is defined in Section 7-1-103.
- 879 (c) "Funds transfer system" means the same as that term is defined in Section
- 880 70A-4a-105.
- 881 (2) An individual title insurance producer or agency title insurance producer may do escrow
- 882 involving real property transactions if all of the following exist:
- 883 (a) the individual title insurance producer or agency title insurance producer is licensed
- 884 with:
- 885 (i) the title line of authority; and
- 886 (ii) the escrow subline of authority;
- 887 (b) the individual title insurance producer or agency title insurance producer is appointed
- 888 by a title insurer authorized to do business in the state;
- 889 (c) except as provided in Subsection (4), the individual title insurance producer or
- 890 agency title insurance producer issues one or more of the following as part of the
- 891 transaction:
- 892 (i) an owner's policy offering title insurance;
- 893 (ii) a lender's policy offering title insurance; or
- 894 (iii) if the transaction does not involve a transfer of ownership, an endorsement to an
- 895 owner's or a lender's policy offering title insurance;
- 896 (d) money deposited with the individual title insurance producer or agency title
- 897 insurance producer in connection with any escrow is deposited:
- 898 (i) in a federally insured depository institution, as defined in Section 7-1-103, that:
- 899 (A) has a branch in this state, if the individual title insurance producer or agency
- 900 title insurance producer depositing the money is a resident licensee; and
- 901 (B) is authorized by the depository institution's primary regulator to engage in
- 902 trust business, as defined in Section ~~[7-5-1]~~ 7-5-101, in this state; and
- 903 (ii) in a trust account that is separate from all other trust account money that is not
- 904 related to real estate transactions;
- 905 (e) money deposited with the individual title insurance producer or agency title
- 906 insurance producer in connection with any escrow is the property of the one or more
- 907 persons entitled to the money under the provisions of the escrow;
- 908 (f) money deposited with the individual title insurance producer or agency title insurance
- 909 producer in connection with an escrow is segregated escrow by escrow in the records
- 910 of the individual title insurance producer or agency title insurance producer;
- 911 (g) earnings on money held in escrow may be paid out of the trust account to any person

- 912 in accordance with the conditions of the escrow;
- 913 (h) the escrow does not require the individual title insurance producer or agency title  
914 insurance producer to hold:
- 915 (i) construction money; or
- 916 (ii) money held for exchange under Section 1031, Internal Revenue Code; and
- 917 (i) the individual title insurance producer or agency title insurance producer shall  
918 maintain a physical office in Utah staffed by a person with an escrow subline of  
919 authority who processes the escrow.
- 920 (3) Notwithstanding Subsection (2), an individual title insurance producer or agency title  
921 insurance producer may engage in the escrow business if:
- 922 (a) the escrow involves:
- 923 (i) a mobile home;
- 924 (ii) a grazing right;
- 925 (iii) a water right; or
- 926 (iv) other personal property authorized by the commissioner; and
- 927 (b) the individual title insurance producer or agency title insurance producer complies  
928 with this section except for Subsection (2)(c).
- 929 (4)(a) Subsection (2)(c) does not apply if the transaction is for the transfer of real  
930 property from the School and Institutional Trust Lands Administration.
- 931 (b) This subsection does not prohibit an individual title insurance producer or agency  
932 title insurance producer from issuing a policy described in Subsection (2)(c) as part  
933 of a transaction described in Subsection (4)(a).
- 934 (5) Money held in escrow:
- 935 (a) is not subject to any debts of the individual title insurance producer or agency title  
936 insurance producer;
- 937 (b) may only be used to fulfill the terms of the individual escrow under which the money  
938 is accepted; and
- 939 (c) may not be used until the conditions of the escrow are met.
- 940 (6) Assets or property other than escrow money received by an individual title insurance  
941 producer or agency title insurance producer in accordance with an escrow shall be  
942 maintained in a manner that will:
- 943 (a) reasonably preserve and protect the asset or property from loss, theft, or damages; and
- 944 (b) otherwise comply with the general duties and responsibilities of a fiduciary or bailee.
- 945 (7)(a) A check from the trust account described in Subsection (2)(d) may not be drawn,

946 executed, or dated, or money otherwise disbursed unless the segregated trust account  
947 from which money is to be disbursed contains a sufficient credit balance consisting of  
948 collected and cleared money at the time the check is drawn, executed, or dated, or  
949 money is otherwise disbursed.

950 (b) As used in this Subsection (7), money is considered to be "collected and cleared,"  
951 and may be disbursed as follows:

952 (i) cash may be disbursed on the same day the cash is deposited;

953 (ii) a wire transfer may be disbursed on the same day the wire transfer is deposited;

954 (iii) the proceeds of one or more of the following financial instruments may be  
955 disbursed on the same day the financial instruments are deposited if received from  
956 a single party to the real estate transaction and if the aggregate of the financial  
957 instruments for the real estate transaction is less than \$10,000:

958 (A) a cashier's check, certified check, or official check that is drawn on an existing  
959 account at a federally insured financial institution;

960 (B) a check drawn on the trust account of a principal broker or associate broker  
961 licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, if  
962 the individual title insurance producer or agency title insurance producer has  
963 reasonable and prudent grounds to believe sufficient money will be available  
964 from the trust account on which the check is drawn at the time of disbursement  
965 of proceeds from the individual title insurance producer or agency title  
966 insurance producer's trust account;

967 (C) a personal check not to exceed \$500 per closing; or

968 (D) a check drawn on the trust account of another individual title insurance  
969 producer or agency title insurance producer, if the individual title insurance  
970 producer or agency title insurance producer in the escrow transaction has  
971 reasonable and prudent grounds to believe that sufficient money will be  
972 available for withdrawal from the account upon which the check is drawn at  
973 the time of disbursement of money from the trust account of the individual title  
974 insurance producer or agency title insurance producer in the escrow transaction;

975 (iv) deposits made through the ACH network may be disbursed on the same day the  
976 deposit is made if:

977 (A) the transferred funds remain uniquely designated and traceable throughout the  
978 entire ACH network transfer process;

979 (B) except as a function of the ACH network process, the transferred funds are not

- 980 subject to comingling or third party access during the transfer process;
- 981 (C) the transferred funds are deposited into the title insurance producer's trust
- 982 account and are available for disbursement; and
- 983 (D) either the ACH network payment type or the title insurance producer's
- 984 systems prevent the transaction from being unilaterally canceled or reversed by
- 985 the consumer once the transferred funds are deposited to the individual title
- 986 insurance producer or agency title producer; or
- 987 (v) deposits may be disbursed on the same day the deposit is made if the deposit is
- 988 made via:
- 989 (A) the Federal Reserve Bank through the Federal Reserve's Fedwire funds
- 990 transfer system; or
- 991 (B) a funds transfer system provided by an association of federally insured
- 992 depository institutions.
- 993 (c) A check or deposit not described in Subsection (7)(b) may be disbursed:
- 994 (i) within the time limits provided under the Expedited Funds Availability Act, 12
- 995 U.S.C. Sec. 4001 et seq., as amended, and related regulations of the Federal
- 996 Reserve System; or
- 997 (ii) upon notification from the financial institution to which the money has been
- 998 deposited that final settlement has occurred on the deposited financial instrument.
- 999 (8) An individual title insurance producer or agency title insurance producer shall maintain
- 1000 a record of a receipt or disbursement of escrow money.
- 1001 (9) An individual title insurance producer or agency title insurance producer shall comply
- 1002 with:
- 1003 (a) Section 31A-23a-409;
- 1004 (b) Title 46, Chapter 1, Notaries Public Reform Act; and
- 1005 (c) any rules adopted by the Title and Escrow Commission, subject to Section 31A-2-404,
- 1006 that govern escrows.
- 1007 (10) If an individual title insurance producer or agency title insurance producer conducts a
- 1008 search for real estate located in the state, the individual title insurance producer or
- 1009 agency title insurance producer shall conduct a reasonable search of the public records.
- 1010 Section 24. Section **31A-23a-409** is amended to read:
- 1011 **31A-23a-409 . Trust obligation for money collected.**
- 1012 (1)(a) Subject to Subsection (7), a licensee is a trustee for money that is paid to, received
- 1013 by, or collected by a licensee for forwarding to insurers or to insureds.

- 1014 (b)(i) Except as provided in Subsection (1)(b)(ii), a licensee may not commingle trust  
 1015 funds with:
- 1016 (A) the licensee's own money; or
  - 1017 (B) money held in any other capacity.
- 1018 (ii) This Subsection (1)(b) does not apply to:
- 1019 (A) amounts necessary to pay bank charges; and
  - 1020 (B) money paid by insureds and belonging in part to the licensee as a fee or  
 1021 commission.
- 1022 (c) Except as provided under Subsection (4), a licensee owes to insureds and insurers the  
 1023 fiduciary duties of a trustee with respect to money to be forwarded to insurers or  
 1024 insureds through the licensee.
- 1025 (d)(i) Unless money is sent to the appropriate payee by the close of the next business  
 1026 day after their receipt, the licensee shall deposit them in an account authorized  
 1027 under Subsection (2).
- 1028 (ii) Money deposited under this Subsection (1)(d) shall remain in an account  
 1029 authorized under Subsection (2) until sent to the appropriate payee.
- 1030 (2) Money required to be deposited under Subsection (1) shall be deposited:
- 1031 (a) into a federally insured trust account in a depository institution, as defined in Section  
 1032 7-1-103, which:
    - 1033 (i) has a branch in this state, if the individual title insurance producer or agency title  
 1034 insurance producer depositing the money is a resident licensee;
    - 1035 (ii) has federal deposit insurance; and
    - 1036 (iii) is authorized by its primary regulator to engage in the trust business, as defined  
 1037 by Section ~~[7-5-1]~~ 7-5-101, in this state; or
  - 1038 (b) into some other account, that:
    - 1039 (i) the commissioner approves by rule or order; and
    - 1040 (ii) provides safety comparable to an account described in Subsection (2)(a).
- 1041 (3) It is not a violation of Subsection (2)(a) if the amounts in the accounts exceed the  
 1042 amount of the federal insurance on the accounts.
- 1043 (4) A trust account into which money is deposited may be interest bearing. The interest  
 1044 accrued on the account may be paid to the licensee, so long as the licensee otherwise  
 1045 complies with this section and with the contract with the insurer.
- 1046 (5) A depository institution or other organization holding trust funds under this section may  
 1047 not offset or impound trust account funds against debts and obligations incurred by the

- 1048 licensee.
- 1049 (6) A licensee who, not being lawfully entitled to do so, diverts or appropriates any portion  
1050 of the money held under Subsection (1) to the licensee's own use, is guilty of theft under  
1051 Title 76, Chapter 6, Part 4, Theft. Sanctions under Section 31A-2-308 also apply.
- 1052 (7) A nonresident licensee:
- 1053 (a) shall comply with Subsection (1)(a) by complying with the trust account  
1054 requirements of the nonresident licensee's home state; and
- 1055 (b) is not required to comply with the other provisions of this section.
- 1056 Section 25. Section **59-10-202** is amended to read:
- 1057 **59-10-202 . Additions to and subtractions from unadjusted income of a resident**  
1058 **or nonresident estate or trust.**
- 1059 (1) There shall be added to unadjusted income of a resident or nonresident estate or trust:
- 1060 (a) a lump sum distribution allowable as a deduction under Section 402(d)(3), Internal  
1061 Revenue Code, to the extent deductible under Section 62(a)(8), Internal Revenue  
1062 Code, in determining adjusted gross income;
- 1063 (b) except as provided in Subsection (3), for bonds, notes, and other evidences of  
1064 indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and  
1065 other evidences of indebtedness:
- 1066 (i) issued by one or more of the following entities:
- 1067 (A) a state other than this state;
- 1068 (B) the District of Columbia;
- 1069 (C) a political subdivision of a state other than this state; or
- 1070 (D) an agency or instrumentality of an entity described in Subsections (1)(b)(i)(A)  
1071 through (C); and
- 1072 (ii) to the extent the interest is not included in federal taxable income on the  
1073 taxpayer's federal income tax return for the taxable year;
- 1074 (c) any portion of federal taxable income for a taxable year if that federal taxable income  
1075 is derived from stock:
- 1076 (i) in an S corporation; and
- 1077 (ii) that is held by an electing small business trust;
- 1078 (d) the amount withdrawn under Title 53H, Chapter 10, Utah Education Savings, from  
1079 the account of a resident or nonresident estate or trust that is an account owner as  
1080 defined in Section 53H-10-101, for the taxable year for which the amount is  
1081 withdrawn, if that amount withdrawn from the account of the resident or nonresident

- 1082 estate or trust that is the account owner:
- 1083 (i) is not expended for:
- 1084 (A) higher education costs as defined in Section 53H-10-201; or
- 1085 (B) a payment or distribution that qualifies as an exception to the additional tax
- 1086 for distributions not used for educational expenses provided in Sections 529(c)
- 1087 and 530(d), Internal Revenue Code; and
- 1088 (ii) is:
- 1089 (A) subtracted by the resident or nonresident estate or trust:
- 1090 (I) that is the account owner; and
- 1091 (II) on the resident or nonresident estate's or trust's return filed under this
- 1092 chapter for a taxable year beginning on or before December 31, 2007; or
- 1093 (B) used as the basis for the resident or nonresident estate or trust that is the
- 1094 account owner to claim a tax credit under Section 59-10-1017; and
- 1095 (e) any fiduciary adjustments required by Section 59-10-210.
- 1096 (2) There shall be subtracted from unadjusted income of a resident or nonresident estate or
- 1097 trust:
- 1098 (a) the interest or a dividend on obligations or securities of the United States and its
- 1099 possessions or of any authority, commission, or instrumentality of the United States,
- 1100 to the extent that interest or dividend is included in gross income for federal income
- 1101 tax purposes for the taxable year but exempt from state income taxes under the laws
- 1102 of the United States, but the amount subtracted under this Subsection (2) shall be
- 1103 reduced by any interest on indebtedness incurred or continued to purchase or carry
- 1104 the obligations or securities described in this Subsection (2), and by any expenses
- 1105 incurred in the production of interest or dividend income described in this Subsection
- 1106 (2) to the extent that such expenses, including amortizable bond premiums, are
- 1107 deductible in determining federal taxable income;
- 1108 (b) income of an irrevocable resident trust if:
- 1109 (i) the income would not be treated as state taxable income derived from Utah
- 1110 sources under Section 59-10-204 if received by a nonresident trust;
- 1111 (ii) the trust first became a resident trust on or after January 1, 2004;
- 1112 (iii) no assets of the trust were held, at any time after January 1, 2003, in another
- 1113 resident irrevocable trust created by the same settlor or the spouse of the same
- 1114 settlor;
- 1115 (iv) the trustee of the trust is a trust company as that term is defined in [Subsection

- 1116 7-5-1(1)(d)] Section 7-5-101;
- 1117 (v) the amount subtracted under this Subsection (2)(b) is reduced to the extent the  
1118 settlor or any other person is treated as an owner of any portion of the trust under  
1119 Subtitle A, Subchapter J, Subpart E of the Internal Revenue Code; and
- 1120 (vi) the amount subtracted under this Subsection (2)(b) is reduced by any interest on  
1121 indebtedness incurred or continued to purchase or carry the assets generating the  
1122 income described in this Subsection (2)(b), and by any expenses incurred in the  
1123 production of income described in this Subsection (2)(b), to the extent that those  
1124 expenses, including amortizable bond premiums, are deductible in determining  
1125 federal taxable income;
- 1126 (c) if the conditions of Subsection (4)(a) are met, the amount of income of a resident or  
1127 nonresident estate or trust derived from a deceased Ute tribal member:
- 1128 (i) during a time period that the Ute tribal member resided on homesteaded land  
1129 diminished from the Uintah and Ouray Reservation; and
- 1130 (ii) from a source within the Uintah and Ouray Reservation;
- 1131 (d) any amount:
- 1132 (i) received by a resident or nonresident estate or trust;
- 1133 (ii) that constitutes a refund of taxes imposed by:
- 1134 (A) a state; or
- 1135 (B) the District of Columbia; and
- 1136 (iii) to the extent that amount is included in total income on that resident or  
1137 nonresident estate's or trust's federal tax return for estates and trusts for that  
1138 taxable year;
- 1139 (e) the amount of a railroad retirement benefit:
- 1140 (i) paid:
- 1141 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231  
1142 et seq.;
- 1143 (B) to a resident or nonresident estate or trust derived from a deceased resident or  
1144 nonresident individual; and
- 1145 (C) for the taxable year; and
- 1146 (ii) to the extent that railroad retirement benefit is included in total income on that  
1147 resident or nonresident estate's or trust's federal tax return for estates and trusts;
- 1148 (f) an amount:
- 1149 (i) received by a resident or nonresident estate or trust if that amount is derived from

- 1150 a deceased enrolled member of an American Indian tribe; and
- 1151 (ii) to the extent that the state is not authorized or permitted to impose a tax under this
- 1152 part on that amount in accordance with:
- 1153 (A) federal law;
- 1154 (B) a treaty; or
- 1155 (C) a final decision issued by a court of competent jurisdiction;
- 1156 (g) the amount that a qualified nongrantor charitable lead trust deducts under Section
- 1157 642(c), Internal Revenue Code, as a charitable contribution deduction, as allowed on
- 1158 the qualified nongrantor charitable lead trust's federal income tax return for estates
- 1159 and trusts for the taxable year;
- 1160 (h) any fiduciary adjustments required by Section 59-10-210;
- 1161 (i) an amount received:
- 1162 (i) for the interest on a bond, note, or other obligation issued by an entity for which
- 1163 state statute provides an exemption of interest on its bonds from state individual
- 1164 income tax;
- 1165 (ii) by a resident or nonresident estate or trust;
- 1166 (iii) for the taxable year; and
- 1167 (iv) to the extent the amount is included in federal taxable income on the taxpayer's
- 1168 federal income tax return for the taxable year;
- 1169 (j) for a taxable year beginning on or after January 1, 2019, but beginning on or before
- 1170 December 31, 2019, only:
- 1171 (i) the amount of any FDIC premium paid or incurred by the resident or nonresident
- 1172 estate or trust that is disallowed as a deduction for federal income tax purposes
- 1173 under Section 162(r), Internal Revenue Code, on the resident's or nonresident
- 1174 estate's or trust's 2018 federal income tax return; plus
- 1175 (ii) the amount of any FDIC premium paid or incurred by the resident or nonresident
- 1176 estate or trust that is disallowed as a deduction for federal income tax purposes
- 1177 under Section 162(r), Internal Revenue Code, for the taxable year; and
- 1178 (k) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC
- 1179 premium paid or incurred by the resident or nonresident estate or trust that is
- 1180 disallowed as a deduction for federal income tax purposes under Section 162(r),
- 1181 Internal Revenue Code, for the taxable year.
- 1182 (3) Notwithstanding Subsection (1)(b), interest from bonds, notes, and other evidences of
- 1183 indebtedness issued by an entity described in Subsections (1)(b)(i)(A) through (D) may

- 1184 not be added to unadjusted income of a resident or nonresident estate or trust if, as  
1185 annually determined by the commission:
- 1186 (a) for an entity described in Subsection (1)(b)(i)(A) or (B), the entity and all of the  
1187 political subdivisions, agencies, or instrumentalities of the entity do not impose a tax  
1188 based on income on any part of the bonds, notes, and other evidences of indebtedness  
1189 of this state; or
- 1190 (b) for an entity described in Subsection (1)(b)(i)(C) or (D), the following do not impose  
1191 a tax based on income on any part of the bonds, notes, and other evidences of  
1192 indebtedness of this state:
- 1193 (i) the entity; or
- 1194 (ii)(A) the state in which the entity is located; or
- 1195 (B) the District of Columbia, if the entity is located within the District of  
1196 Columbia.
- 1197 (4)(a) A subtraction for an amount described in Subsection (2)(c) is allowed only if:
- 1198 (i) the income is derived from a deceased Ute tribal member; and
- 1199 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the  
1200 requirements of this Subsection (4).
- 1201 (b) The agreement described in Subsection (4)(a):
- 1202 (i) may not:
- 1203 (A) authorize the state to impose a tax in addition to a tax imposed under this  
1204 chapter;
- 1205 (B) provide a subtraction under this section greater than or different from the  
1206 subtraction described in Subsection (2)(c); or
- 1207 (C) affect the power of the state to establish rates of taxation; and
- 1208 (ii) shall:
- 1209 (A) provide for the implementation of the subtraction described in Subsection  
1210 (2)(c);
- 1211 (B) be in writing;
- 1212 (C) be signed by:
- 1213 (I) the governor; and
- 1214 (II) the chair of the Business Committee of the Ute tribe;
- 1215 (D) be conditioned on obtaining any approval required by federal law; and
- 1216 (E) state the effective date of the agreement.
- 1217 (c)(i) The governor shall report to the commission by no later than February 1 of each

- 1218 year regarding whether or not an agreement meeting the requirements of this  
 1219 Subsection (4) is in effect.
- 1220 (ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the  
 1221 subtraction permitted under Subsection (2)(c) is not allowed for taxable years  
 1222 beginning on or after the January 1 following the termination of the agreement.
- 1223 (d) For purposes of Subsection (2)(c) and in accordance with Title 63G, Chapter 3, Utah  
 1224 Administrative Rulemaking Act, the commission may make rules:
- 1225 (i) for determining whether income is derived from a source within the Uintah and  
 1226 Ouray Reservation; and
- 1227 (ii) that are substantially similar to how adjusted gross income derived from Utah  
 1228 sources is determined under Section 59-10-117.

1229 Section 26. Section **75B-1-101** is amended to read:

1230 **75B-1-101 . Definitions for title.**

1231 As used in this title:

- 1232 (1) "Agent" means the same as that term is defined in Section 75-1-201.
- 1233 (2) "Beneficiary" means a person that:
- 1234 (a) has a present or future beneficial interest in a trust, vested or contingent; or
- 1235 (b) in a capacity other than that of trustee, holds a power of appointment over trust  
 1236 property.
- 1237 (3) "Charitable trust" means a trust, or portion of a trust, created for a charitable purpose  
 1238 described in Subsection 75B-2-405(1).
- 1239 (4) "Child" means, except as provided in Sections 75B-2-503 and 75B-2-504, the same as  
 1240 that term is defined in Section 75-1-201.
- 1241 (5) "Claims" means the same as that term is defined in Section 75-1-201.
- 1242 (6) "Conservator" means the same as that term is defined in Section 75-1-201.
- 1243 (7) "Court" means a court with jurisdiction under Title 78A, Judiciary and Judicial  
 1244 Administration.
- 1245 (8) "Descendant" means the same as that term is defined in Section 75-1-201.
- 1246 (9) "Devise" means the same as that term is defined in Section 75-1-201.
- 1247 (10) "Distributee" means the same as that term is defined in Section 75-1-201.
- 1248 (11) "Estate" means the same as that term is defined in Section 75-1-201.
- 1249 (12) "Fiduciary" means the same as that term is defined in Section 75-1-201.
- 1250 (13) "Governing instrument" means the same as that term is defined in Section 75-1-201.
- 1251 (14) "Guardian" means the same as that term is defined in Section 75-1-201.

- 1252 (15) "Incapacitated" means the same as that term is defined in Section 75-1-201.
- 1253 (16) "Income" means the same as that term is defined in Section 75A-5-102.
- 1254 (17) "Interested person" means, except as provided in Section 75B-2-110, the same as that  
1255 term is defined in Section 75-1-102.
- 1256 (18) "Lease" means the same as that term is defined in Section 75-1-201.
- 1257 (19) "Minor" means an individual who is younger than 18 years old.
- 1258 (20) "Mortgage" means the same as that term is defined in Section 75-1-201.
- 1259 (21) "Nongeneral power of appointment" means the same as that term is defined in Section  
1260 75A-4-102.
- 1261 (22) "Organization" means the same as that term is defined in Section 75-1-201.
- 1262 (23) "Parent" means the same as that term is defined in Section 75-1-201.
- 1263 (24) "Person" means the same as that term is defined in Section 75-1-201.
- 1264 (25) "Personal representative" means the same as that term is defined in Section 75-1-201.
- 1265 (26) "Petition" means the same as that term is defined in Section 75-1-201.
- 1266 (27) "Power of appointment" means the same as that term is defined in Section 75A-4-102.
- 1267 (28) "Principal" means the same as that term is defined in Section 75A-5-102.
- 1268 (29) "Property" means the same as that term is defined in Section 75-1-201.
- 1269 (30) "Protected person" means the same as that term is defined in Section 75-1-201.
- 1270 (31) "Record" means the same as that term is defined in Section 75-1-201.
- 1271 (32) "Security" means the same as that term is defined in Section 75-1-201.
- 1272 (33)(a) "Settlor" means a person, including a testator, who creates, or contributes  
1273 property to, a trust.
- 1274 (b) If more than one person creates or contributes property to a trust, each person is a  
1275 settlor of the portion of the trust property attributable to that person's contribution  
1276 except to the extent another person has the power to revoke or withdraw that portion.
- 1277 (34) "Sign" means the same as that term is defined in Section 75-1-201.
- 1278 (35) "State" means the same as that term is defined in Section 75-1-201.
- 1279 (36) "Successor" means a person, other than a creditor, that is entitled to property of a  
1280 decedent under the decedent's will or Title 75, Utah Uniform Probate Code.
- 1281 (37) "Testator" means the same as that term is defined in Section 75-1-201.
- 1282 (38)(a) "Trust" means:
- 1283 (i) a health savings account, as defined in Section 223 of the Internal Revenue Code;
- 1284 (ii) an express trust, private or charitable, with additions thereto, wherever and  
1285 however created; or

1286 (iii) a trust created or determined by judgment or decree under which the trust is to be  
 1287 administered in the manner of an express trust.

1288 (b) "Trust" does not include:

1289 (i) a constructive trust;

1290 (ii) a resulting trust;

1291 (iii) a conservatorship;

1292 (iv) a personal representative;

1293 (v) a trust account as defined in Title 75, Chapter 6, Nonprobate Transfers;

1294 (vi) a custodial arrangement under Title 75A, Chapter 8, Uniform Transfers To  
 1295 Minors Act;

1296 (vii) a business trust providing for certificates to be issued to beneficiaries;

1297 (viii) a common trust fund;

1298 (ix) a voting trust;

1299 (x) a preneed funeral plan under Title 58, Chapter 9, Funeral Services Licensing Act;

1300 (xi) a security arrangement;

1301 (xii) a liquidation trust;

1302 (xiii) a trust for the primary purpose of paying debts, dividends, interest, salaries,  
 1303 wages, profits, pensions, or employee benefits of any kind; or

1304 (xiv) any arrangement under which a person is nominee or escrowee for another  
 1305 person.

1306 (39) "Trust company" means the same as that term is defined in Section ~~[7-5-1]~~ 7-5-101.

1307 (40) "Trustee" means an original, additional, and successor trustee, and cotrustee, whether  
 1308 or not appointed or confirmed by the court.

1309 (41) "Trust instrument" means an instrument executed by the settlor that contains terms of  
 1310 the trust, including any amendments thereto.

1311 (42) "Ward" means the same as that term is defined in Section 75-1-201.

1312 (43) "Will" means the same as that term is defined in Section 75-1-201.

1313 Section 27. Section **75B-3-107** is amended to read:

1314 **75B-3-107 . Limitations on trust director.**

1315 (1) A trust director is subject to the same rules as a trustee in a like position and under  
 1316 similar circumstances in the exercise or nonexercise of a power of direction or further  
 1317 power under Subsection 75B-3-106(2)(a) regarding:

1318 ~~[(1)]~~ (a) a payback provision in the terms of a trust necessary to comply with the

1319 Medicaid reimbursement requirements in Section 1917 of the Social Security Act, 42

1320 U.S.C. Sec. 1396p(d)(4)(A), as amended, and any related regulations; and  
1321 [~~(2)~~] (b) a charitable interest in the trust, including notice regarding the interest to the  
1322 attorney general.  
1323 (2) A trust director may not engage in trust business, as that term is defined in Section  
1324 7-5-101.  
1325 Section 28. **Effective Date.**  
1326 This bill takes effect on May 6, 2026.