

## **Title 67. State Officers and Employees**

### **Chapter 1 Governor**

#### **67-1-1 General powers and duties.**

In addition to those prescribed by the constitution, the governor:

- (1) shall supervise the official conduct of all executive and ministerial officers;
- (2) shall see that all offices are filled and the duties thereof performed, or in default thereof, apply such remedy as the law allows, and, if the remedy is imperfect, acquaint the Legislature therewith at its next session;
- (3) shall make appointments and fill vacancies as required by law;
- (4) is the sole official organ of communication between the government of this state and the government of any other state and of the United States;
- (5) whenever any suit or legal proceeding is pending against this state, or which may affect the title of this state to any property, or which may result in any claim against the state, may direct the attorney general to appear on behalf of the state, and may employ such additional counsel as the governor may judge expedient;
- (6) may require the attorney general or the county attorney or district attorney of any county to inquire into the affairs or management of any corporation doing business in this state;
- (7) may require the attorney general to aid any county attorney or district attorney in the discharge of the county attorney's or district attorney's duties;
- (8) may offer rewards, not exceeding \$1,000 each, payable out of the general fund, for the apprehension of any convict who has escaped from the state prison, or any person who has committed, or is charged with the commission of, a felony;
- (9) shall perform such duties respecting fugitives from justice as are prescribed by law;
- (10) shall issue and transmit election proclamations as prescribed by law;
- (11) shall issue land warrants and patents as prescribed by law;
- (12) shall, prior to each regular meeting of the Legislature, deliver to the Division of Archives for publication all biennial reports of officers, commissions, and boards for the two preceding years;
- (13) shall require any officer, commission, or board to make special reports to the governor in writing;
- (14) shall discharge the duties of a member of all boards of which the governor is or may be made a member by the constitution or by law;
- (15) shall each year issue a proclamation recommending the observance of Arbor day, by the planting of trees, shrubs, and vines, in the promotion of forest growth and culture, and in the adornment of public and private grounds, places and ways, and in such other efforts and undertakings as shall be in harmony with the general character of such holiday; and
- (16) has such other powers and must perform such other duties as are devolved upon the governor by law.

Amended by Chapter 302, 2025 General Session

#### **67-1-1.5 Gubernatorial appointment powers.**

- (1) As used in this section:
  - (a) "Board member" means each gubernatorial appointee to any state board, committee, commission, council, or authority.

- (b) "Executive branch management position" includes department executive directors, division directors, and any other administrative position in state government where the person filling the position:
  - (i) works full-time performing managerial and administrative functions;
  - (ii) is appointed by the governor with the advice and consent of the Senate.
- (c)
  - (i) "Executive branch policy position" means any person other than a person filling an executive branch management position, who is appointed by the governor with the advice and consent of the Senate.
  - (ii) "Executive branch policy position" includes each member of any state board and commission appointed by the governor with the advice and consent of the Senate.
- (2)
  - (a) Whenever a vacancy occurs in any executive branch policy position or in any executive branch management position, the governor shall submit the name of a nominee to the Senate for advice and consent no later than three months after the day on which the vacancy occurs.
  - (b) If the Senate fails to consent to that person within 90 days after the day on which the governor submits the nominee's name to the Senate for consent:
    - (i) the nomination is considered rejected; and
    - (ii) the governor shall resubmit the name of the nominee described in Subsection (2)(a) or submit the name of a different nominee to the Senate for consent no later than 60 days after the date on which the nomination was rejected by the Senate.
- (3) Whenever a vacancy occurs in any executive branch management position, the governor may either:
  - (a) appoint an interim manager who meets the qualifications of the vacant position to exercise the powers and duties of the vacant position for three months, pending consent of a person to permanently fill that position by the Senate; or
  - (b) appoint an interim manager who does not meet the qualifications of the vacant position and submit that person's name to the Senate for consent as interim manager within one month of the appointment.
- (4) Except for an interim manager appointed to a position described in Subsection 67-1-2(2)(a), if the Senate fails to consent to the interim manager appointed under Subsection (3)(b) within 30 days after the day on which the governor submits the nominee's name to the Senate for consent:
  - (a) the nomination is considered rejected; and
  - (b) the governor may:
    - (i)
      - (A) reappoint the interim manager to whom the Senate failed to consent within 30 days; and
      - (B) resubmit the name of the person described in Subsection (4)(b)(i)(A) to the Senate for consent as interim manager; or
    - (ii) appoint a different interim manager under Subsection (3).
- (5) For an interim manager appointed to a position described in Subsection 67-1-2(2)(a), if the Senate fails to consent to the interim manager appointed under Subsection (3)(b) within 60 days after the day on which the governor submits the nominee's name to the Senate for consent:
  - (a) the nomination is considered rejected; and
  - (b) the governor may:
    - (i)
      - (A) reappoint the interim manager to whom the Senate failed to consent; and

- (B) resubmit the name of the person described in Subsection (5)(b)(i)(A) to the Senate for consent as interim manager; or
  - (ii) appoint a different interim manager under Subsection (3).
- (6) If, after an interim manager has served three months, no one has been appointed and received Senate consent to permanently fill the position, the governor shall:
  - (a) appoint a new interim manager who meets the qualifications of the vacant position to exercise the powers and duties of the vacant position for three months; or
  - (b) submit the name of the first interim manager to the Senate for consent as an interim manager for a three-month term.
- (7) If the Senate fails to consent to a nominee whose name is submitted under Subsection (6)(b) within 30 days after the day on which the governor submits the name to the Senate:
  - (a) the nomination is considered rejected; and
  - (b) the governor shall:
    - (i)
      - (A) reappoint the person described in Subsection (6)(b); and
      - (B) resubmit the name of the person described in Subsection (6)(b) to the Senate for consent as interim manager; or
    - (ii) appoint a different interim manager in the manner required by Subsection (3).
- (8) The governor may not make a temporary appointment to fill a vacant executive branch policy position.
- (9)
  - (a) Before appointing any person to serve as a board member, the governor shall ask the person whether the person wishes to receive per diem, expenses, or both for serving as a board member.
  - (b) If the person declines to receive per diem, expenses, or both, the governor shall notify the agency administering the board, commission, committee, council, or authority and direct the agency to implement the board member's request.
- (10) A gubernatorial nomination upon which the Senate has not acted to give consent or refuse to give consent is void when a vacancy in the office of governor occurs.

Amended by Chapter 250, 2023 General Session

**67-1-2 Senate confirmation of gubernatorial nominees -- Verification of nomination requirements -- Consultation on appointments -- Notification of anticipated vacancies.**

- (1)
  - (a) Except as provided in Subsection (3), at least 30 days before the day of an extraordinary session of the Senate to confirm a gubernatorial nominee, the governor shall send to each member of the Senate and to the Office of Legislative Research and General Counsel the following information for each nominee:
    - (i) the nominee's name and biographical information, including a resume and curriculum vitae with personal contact information, including home address, email address, and telephone number, redacted, except that the governor shall send to the Office of Legislative Research and General Counsel the contact information for the nominee;
    - (ii) a detailed list, with citations, of the legal requirements for the appointed position;
    - (iii) a detailed list with supporting documents explaining how, and verifying that, the nominee meets each statutory and constitutional requirement for the appointed position;
    - (iv) a written certification by the governor that the nominee satisfies all requirements for the appointment; and

- (v) public comment information collected in accordance with Section 63G-24-204.
- (b) This Subsection (1) does not apply to a judicial appointee.
- (2)
  - (a) A majority of the president of the Senate, the Senate majority leader, and the Senate minority leader may waive the 30-day requirement described in Subsection (1) for a gubernatorial nominee other than a nominee for the following:
    - (i) the executive director of a department;
    - (ii) the executive director of the Governor's Office of Economic Opportunity;
    - (iii) the executive director of the Labor Commission;
    - (iv) a member of the State Tax Commission;
    - (v) a member of the State Board of Education;
    - (vi) a member of the Utah Board of Higher Education; or
    - (vii) an individual:
      - (A) whose appointment requires the advice and consent of the Senate; and
      - (B) whom the governor designates as a member of the governor's cabinet.
  - (b) The Senate shall hold a confirmation hearing for a nominee for an individual described in Subsection (2)(a).
- (3) The governor shall:
  - (a) if the governor is aware of an upcoming vacancy in a position that requires Senate confirmation, provide notice of the upcoming vacancy to the president of the Senate, the Senate minority leader, and the Office of Legislative Research and General Counsel at least 30 days before the day on which the vacancy occurs; and
  - (b) establish a process for government entities and other relevant organizations to provide input on gubernatorial appointments.
- (4) When the governor makes a judicial appointment, the governor shall immediately provide to the president of the Senate and the Office of Legislative Research and General Counsel:
  - (a) the name of the judicial appointee; and
  - (b) the judicial appointee's:
    - (i) resume;
    - (ii) complete file of all the application materials the governor received from the judicial nominating commission; and
    - (iii) any other related documents, including any letters received by the governor about the appointee, unless the letter specifically directs that the letter may not be shared.
- (5) The governor shall inform the president of the Senate and the Office of Legislative Research and General Counsel of the number of letters withheld pursuant to Subsection (4)(b)(iii).
- (6)
  - (a) Letters of inquiry submitted by any judge at the request of any judicial nominating commission are classified as private in accordance with Section 63G-2-302.
  - (b) All other records received from the governor pursuant to this Subsection (6) may be classified as private in accordance with Section 63G-2-302.
- (7) The Senate shall consent or refuse to give the Senate's consent to a nomination or judicial appointment.

Amended by Chapter 250, 2023 General Session

**67-1-2.5 Executive boards -- Database -- Governor's review of new boards -- Creation of boards and commissions -- Inactive boards.**

- (1) As used in this section:

- (a) "Administrator" means the boards and commissions administrator designated under Subsection (3).
  - (b) "Executive board" means an executive branch board, commission, council, committee, working group, task force, study group, advisory group, or other body:
    - (i) with a defined limited membership;
    - (ii) that is created by the constitution, by statute, by executive order, by the governor, lieutenant governor, attorney general, state auditor, or state treasurer or by the head of a department, division, or other administrative subunit of the executive branch of state government; and
    - (iii) that is created to operate for more than six months.
  - (c) "Inactive board" means a board that does not need to function at the present time, but may need to function in the future.
  - (d) "Interim committee" means the same as that term is defined in Legislative Joint Rules, Title 7, Chapter 1, Part 2, Creation and Organization of Legislative Committees.
- (2)
- (a) Except as provided in Subsection (2)(c), before August 1 of the calendar year following the year in which a new executive board is created in statute, the governor shall:
    - (i) review the executive board to evaluate:
      - (A) whether the executive board accomplishes a substantial governmental interest; and
      - (B) whether it is necessary for the executive board to continue to exist;
    - (ii) in the governor's review described in Subsection (2)(a)(i), consider:
      - (A) the funding required for the executive board;
      - (B) the staffing resources required for the executive board;
      - (C) the time members of the executive board are required to commit to serve on the executive board; and
      - (D) whether the responsibilities of the executive board could reasonably be accomplished through an existing entity or without statutory direction; and
    - (iii) submit a report to the Government Operations Interim Committee recommending that the Legislature:
      - (A) repeal the executive board;
      - (B) add a sunset provision or future repeal date to the executive board;
      - (C) make other changes to make the executive board more efficient; or
      - (D) make no changes to the executive board.
  - (b) In conducting the evaluation described in Subsection (2)(a), the governor shall give deference to:
    - (i) reducing the size of government; and
    - (ii) making governmental programs more efficient and effective.
  - (c) The governor is not required to conduct the review or submit the report described in Subsection (2)(a) for an executive board that is scheduled for repeal under Title 63I, Chapter 1, Legislative Oversight and Sunset Act, or Title 63I, Chapter 2, Repeal Dates by Title Act.
- (3)
- (a) The governor shall designate a board and commissions administrator from the governor's staff to maintain a computerized database containing information about all executive boards.
  - (b) The administrator shall ensure that the database contains:
    - (i) the name of each executive board;
    - (ii) the current statutory or constitutional authority for the creation of the executive board;
    - (iii) the sunset date on which each executive board's statutory authority expires;
    - (iv) the state officer or department and division of state government under whose jurisdiction the executive board operates or with which the executive board is affiliated, if any;

- (v) the name, address, gender, telephone number, and county of each individual currently serving on the executive board, along with a notation of all vacant or unfilled positions;
  - (vi) the title of the position held by the person who appointed each member of the executive board;
  - (vii) the length of the term to which each member of the executive board was appointed and the month and year that each executive board member's term expires;
  - (viii) whether members appointed to the executive board require the advice and consent of the Senate;
  - (ix) the organization, interest group, profession, local government entity, or geographic area that an individual appointed to an executive board represents, if any;
  - (x) the party affiliation of an individual appointed to an executive board, if the statute or executive order creating the position requires representation from political parties;
  - (xi) whether each executive board is a policy board or an advisory board;
  - (xii) whether the executive board has or exercises rulemaking authority, or is a rulemaking board as defined in Section 63G-24-102; and
  - (xiii) any compensation and expense reimbursement that members of the executive board are authorized to receive.
- (4) The administrator shall ensure the governor's website includes:
- (a) the information contained in the database, except for an individual's:
    - (i) physical address;
    - (ii) email address; and
    - (iii) telephone number;
  - (b) a portal, accessible on each executive board's web page within the governor's website, through which a member of the public may provide input on:
    - (i) an individual appointed to serve on the executive board; or
    - (ii) a sitting member of the executive board;
  - (c) each report the administrator receives under Subsection (5); and
  - (d) the summary report described in Subsection (6).
- (5)
- (a) Before August 1, in each even-numbered year, each executive board shall prepare and submit to the administrator a report that includes:
    - (i) the name of the executive board;
    - (ii) a description of the executive board's official function and purpose;
    - (iii) a description of the actions taken by the executive board since the last report the executive board submitted to the administrator under this Subsection (5);
    - (iv) recommendations on whether any statutory, rule, or other changes are needed to make the executive board more effective; and
    - (v) an indication of whether the executive board should continue to exist.
  - (b) The administrator shall compile and post the reports described in Subsection (5)(a) to the governor's website before September 1 of a calendar year in which the administrator receives a report described in Subsection (5)(a).
- (6)
- (a) Before September 1 of a calendar year in which the administrator receives a report described in Subsection (5)(a), the administrator shall prepare a report that includes:
    - (i) as of July 1 of that year, the total number of executive boards that exist;
    - (ii) a summary of the reports submitted to the administrator under Subsection (5), including:
      - (A) a list of each executive board that submitted a report under Subsection (5);
      - (B) a list of each executive board that failed to timely submit a report under Subsection (5);

- (C) an indication of any recommendations made under Subsection (5)(a)(iv);
- (D) a list of any executive boards that indicated under Subsection (5)(a)(v) that the executive board should no longer exist; and
- (E) a recommendation regarding whether the administrator recommends the executive board should continue to exist; and
- (iii) a list of each executive board, identified and reported by the Division of Archives and Record Services under Section 63A-16-601, that did not post a notice of a public meeting on the Utah Public Notice Website during the previous fiscal year.
- (b) On or before September 1 of a calendar year in which the administrator prepares a report described in Subsection (6)(a), in accordance with Section 68-3-14, the administrator shall submit the report to:
  - (i) the president of the Senate;
  - (ii) the speaker of the House of Representatives; and
  - (iii) the Government Operations Interim Committee.
- (c)
  - (i) Within 60 days after the day on which an executive board fails to timely submit a report under Subsection (5), a legislative interim committee shall conduct a review to determine whether to recommend repeal of the executive board.
  - (ii) The Office of Legislative Research and General Counsel shall notify the chairs of an interim committee whose subject area most closely relates to an executive board described in Subsection (6)(c)(i) of:
    - (A) the name of the board;
    - (B) information regarding the function of the board; and
    - (C) the deadline by which the interim committee is required to conduct a review described in Subsection (6)(c)(i).
  - (iii) If there is not an interim committee with a subject area relating to the executive board, or if the interim committee described in Subsection (6)(c)(ii) is unable to timely conduct the review described in Subsection (6)(c), the Government Operations Interim Committee shall conduct the review.
  - (iv) If an interim committee recommends that an executive board described in Subsection (6)(c)(i) be repealed, the Office of Legislative Research and General Counsel shall draft a bill repealing the executive board.
- (7) The Legislature may not create an executive board except through a bill that receives a favorable recommendation by unanimous vote of an interim committee.
- (8) Except for an executive board created by the Utah Constitution, an interim committee may determine that an executive board is an inactive board and recommend that the governor deactivate the executive board.
- (9) Except for an executive board created by the Utah Constitution, an interim committee may recommend that the governor reactivate a deactivated executive board.
- (10) If an interim committee recommends that the governor deactivate or reactivate an executive board, the chairs of the interim committee shall submit a written notice identifying the name of the executive board and the reason for the recommendation to:
  - (a) the governor;
  - (b) the chairs of the Legislative Management Committee;
  - (c) the administrator, as defined in Section 67-1-2.5; and
  - (d) the executive branch agency that oversees the board.
- (11) Except for an executive board created by the Utah Constitution, the Legislature may deactivate or reactivate an executive board by concurrent resolution.

(12)

- (a) Except as provided in Subsection (12)(c), the governor may determine that an executive board is an inactive board:
  - (i) in response to the recommendation of an interim committee; or
  - (ii) based on the governor's own determination.
- (b) Except as provided in Subsection (12)(c), if the governor determines that an executive board is an inactive board, the governor may deactivate the executive board.
- (c) The governor may not deactivate an executive board if:
  - (i) the executive board is created by the Utah Constitution;
  - (ii) within the previous one-year period, the Legislature created the executive board, reauthorized the executive board, or, by concurrent resolution, reactivated the executive board; or
  - (iii) the board is created by a statute that expressly prohibits the governor from deactivating the executive board.
- (d) An executive board that the governor deactivates under Subsection (12)(b), or that the Legislature deactivates by concurrent resolution, may not take an action or fulfill a duty that the executive board is otherwise statutorily authorized to take or fulfill.

(13)

- (a) Except as provided in Subsection (13)(c), the governor may determine that a deactivated executive board should be reactivated.
  - (b) Except as provided in Subsection (13)(c), if the governor determines that a deactivated executive board should be reactivated, the governor may reactivate the executive board.
  - (c) The governor may not reactivate an executive board if:
    - (i) within the previous one-year period, the Legislature deactivated the executive board by concurrent resolution; or
    - (ii) the board is created by a statute that expressly prohibits the governor from reactivating the executive board.
  - (d) An executive board that the governor reactivates under Subsection (13)(b), or that the Legislature reactivates by concurrent resolution, may take an action or fulfill a duty that the executive board is statutorily authorized to take or fulfill.
- (14) Before the governor deactivates or reactivates an executive board under this section, the governor shall submit a written notice identifying the name of the board and the reason the governor has determined to deactivate or reactivate the executive board to:
- (a) the chairs of the Legislative Management Committee;
  - (b) the chairs of the Government Operations Interim Committee;
  - (c) the administrator, as defined in Section 67-1-2.5; and
  - (d) the executive branch agency that oversees the board.

Amended by Chapter 533, 2024 General Session

### **67-1-3 Removal of gubernatorial appointee.**

- (1) Any time during a recess of the Legislature, the governor may remove any gubernatorial appointee for official misconduct, habitual or willful neglect of duty, or for other good and sufficient cause.
- (2) If the appointment required the advice and consent of the Senate, the governor may fill the vacancy created by the removal by following the procedures and requirements of Section 67-1-1.5.



Amended by Chapter 373, 2020 General Session

**67-1-4 Records to be kept.**

The governor must cause to be kept the following records:

- (1) An account of all the governor's official expenses and disbursements, including the incidental expenses of the governor's department, and an account of all rewards offered by the governor for the apprehension of criminals and persons charged with crime.
- (2) A register of all appointments made by the governor, with dates of commissions and names of appointees and predecessors.

Amended by Chapter 365, 2024 General Session

**67-1-5 Commissioning officers.**

The governor must commission all officers of the militia, and all officers appointed by the governor or by the governor with the advice and consent of the Senate.

Amended by Chapter 373, 2020 General Session

**67-1-6 Acting governor -- Powers and duties.**

Every provision of law relating to the powers and duties of the governor, and relating to acts and duties to be performed by others toward the governor, extends to the person performing, for the time being, the duties of governor.

Amended by Chapter 365, 2024 General Session

**67-1-8.1 Executive Residence Commission -- Recommendations as to use, maintenance, and operation of executive residence.**

- (1) The Legislature finds and declares that:
  - (a) the state property known as the Thomas Kearns Mansion is a recognized state landmark possessing historical and architectural qualities that should be preserved; and
  - (b) the Thomas Kearns Mansion was the first building listed on the National Register of Historic Places in the state.
- (2) As used in this section:
  - (a) "Executive residence" includes the:
    - (i) Thomas Kearns Mansion;
    - (ii) Carriage House building;
    - (iii) grounds and landscaping surrounding the Thomas Kearns Mansion and the Carriage House building ; and
    - (iv) state owned property included in the Salt Lake City area bounded by South Temple, G Street, First Avenue, and H Street.
  - (b) "Commission" means the Executive Residence Commission established in this section.
- (3)
  - (a) An Executive Residence Commission is established to make recommendations to the Division of Facilities Construction and Management for the use, operation, maintenance, repair, rehabilitation, alteration, restoration, placement of art and monuments, or adoptive use of the executive residence.
  - (b) The commission shall meet at least once a year and make any recommendations to the Division of Facilities Construction and Management prior to August 1 of each year.

- (4) The commission shall consist of nine voting members and one ex officio, nonvoting member representing the Governor's Mansion Foundation. The membership shall consist of:
- (a) three private citizens appointed by the governor, who have demonstrated an interest in historical preservation;
  - (b) three additional private citizens appointed by the governor with the following background:
    - (i) an interior design professional with a background in historic spaces;
    - (ii) an architect with a background in historic preservation and restoration recommended by the Utah chapter of the American Institute of Architects; and
    - (iii) a landscape architect with a background and knowledge of historic properties recommended by the Utah chapter of the American Society of Landscape Architects;
  - (c) the director, or director's designee, of the Division of Art and Museums;
  - (d) the director, or director's designee, of the Utah Historical Society; and
  - (e) the executive director, or executive director's designee, of the Department of Government Operations.
- (5)
- (a) Except as required by Subsection (5)(b), as terms of current commission members expire, the governor shall appoint each new member or reappointed member to a four-year term ending on March 1.
  - (b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.
- (6)
- (a) The governor shall appoint a chair from among the membership of the commission.
  - (b) Six members of the commission shall constitute a quorum, and either the chair or two other members of the commission may call meetings of the commission.
- (7) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
- (8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
- (a) Section 63A-3-106;
  - (b) Section 63A-3-107; and
  - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (9) The Division of Facilities Construction and Management shall provide the administrative support to the commission.

Amended by Chapter 160, 2023 General Session

Amended by Chapter 439, 2023 General Session

**67-1-9 Governor's residence -- Sources of funds.**

- (1) The Kearns' mansion shall be the official residence of the governor.
- (2) The Division of Facilities Construction and Management may apply for, accept and expend funds from federal and other sources for carrying out the purposes of Section 67-1-8.1 and this section.

Amended by Chapter 209, 2021 General Session

**67-1-10 Spouse of the governor -- Status as state employee.**

The spouse of the governor of the state, when acting as a representative of this state, shall be considered a state employee.

Enacted by Chapter 70, 1985 General Session

**67-1-11 Gender balance in appointing board members.**

- (1) As used in this section, "appointing authority" means the speaker of the House, the president of the Senate, the governor, the governor's designee, nominating committee, or executive branch officer or other body empowered by statute or rule to make any appointment or nomination for appointment to any board, committee, bureau, commission, council, panel, or other entity.
- (2) In making a nomination, appointment, or reappointment to fill a vacancy on any board, committee, bureau, commission, council, or other entity, the appointing authority shall strongly consider nominating, appointing, or reappointing a qualified individual whose gender is in the minority on that entity.

Enacted by Chapter 302, 1992 General Session

**67-1-12 Displaced defense workers.**

- (1) The governor, through the Department of Workforce Services, may use funds specifically appropriated by the Legislature to benefit, in a manner prescribed by Subsection (2):
  - (a) Department of Defense employees within the state who lose their employment because of reductions in defense spending by the federal government;
  - (b) persons dismissed by a defense-related industry employer because of reductions in federal government defense contracts received by the employer; and
  - (c) defense-related businesses in the state that have been severely and adversely impacted because of reductions in defense spending.
- (2) Funds appropriated under this section before fiscal year 1999-2000 but not expended shall remain with the agency that possesses the funds and shall be used in a manner consistent with this section. Any amount appropriated under this section in fiscal year 1999-2000 or thereafter may be used to:
  - (a) provide matching or enhancement funds for grants, loans, or other assistance received by the state from the United States Department of Labor, Department of Defense, or other federal agency to assist in retraining, community assistance, or technology transfer activities;
  - (b) fund or match available private or public funds from the state or local level to be used for retraining, community assistance, technology transfer, or educational projects coordinated by state or federal agencies;
  - (c) provide for retraining, upgraded services, and programs at technical colleges, public schools, higher education institutions, or any other appropriate public or private entity that are designed to teach specific job skills requested by a private employer in the state or required for occupations that are in demand in the state;
  - (d) aid public or private entities that provide assistance in locating new employment;
  - (e) inform the public of assistance programs available for persons who have lost their employment;
  - (f) increase funding for assistance and retraining programs;
  - (g) provide assistance for small start-up companies owned or operated by persons who have lost their employment;
  - (h) enhance the implementation of dual-use technologies programs, community adjustment assistance programs, or other relevant programs under Pub. L. No. 102-484; and

- (i) coordinate local and national resources to protect and enhance current Utah defense installations and related operations and to facilitate conversion or enhancement efforts by:
  - (i) creating and operating state information clearinghouse operations that monitor relevant activities on the federal, state, and local level;
  - (ii) identifying, seeking, and matching funds from federal and other public agencies and private donors;
  - (iii) identifying and coordinating needs in different geographic areas;
  - (iv) coordinating training and retraining centers;
  - (v) coordinating technology transfer efforts between public entities, private entities, and institutions of higher education;
  - (vi) facilitating the development of local and national awareness and support for Utah defense installations;
  - (vii) studying the creation of strategic alliances, tax incentives, and relocation and consolidation assistance; and
  - (viii) exploring feasible alternative uses for the physical and human resources at defense installations and in related industries should reductions in mission occur.
- (3) The governor, through the Department of Workforce Services, may coordinate and administer the expenditure of money under this section and collaborate with institutions of higher education, or other appropriate public or private entities to provide retraining and other services described in Subsection (2).

Amended by Chapter 254, 2023 General Session

#### **67-1-14 Information technology.**

The governor shall review the executive branch strategic plan submitted to the governor by the chief information officer in accordance with Section 63A-16-202.

Amended by Chapter 345, 2021 General Session

#### **67-1-15 Approval of international trade agreement -- Consultation with Utah International Relations and Trade Commission.**

Before binding the state or giving the federal government consent to bind the state to an international trade agreement the Governor shall consult with the Utah International Relations and Trade Commission.

Amended by Chapter 181, 2017 General Session

### **Chapter 1a Lieutenant Governor**

#### **67-1a-1 Intent of Legislature.**

It is the intent of the Legislature to emphasize the significant responsibilities and duties assigned to the lieutenant governor of the state. As the second highest official of the state, the lieutenant governor is next in command of the executive department in the event of death, removal, resignation, or disability of the governor. The assignment of important responsibilities to the

lieutenant governor is essential to the continuity of state government and for the effective use of funds appropriated to the office of lieutenant governor.

Amended by Chapter 9, 2001 General Session

**67-1a-2 Duties enumerated.**

(1) The lieutenant governor shall:

- (a) perform duties delegated by the governor, including assignments to serve in any of the following capacities:
  - (i) as the head of any one department, if so qualified, with the advice and consent of the Senate, and, upon appointment at the pleasure of the governor and without additional compensation;
  - (ii) as the chairperson of any cabinet group organized by the governor or authorized by law for the purpose of advising the governor or coordinating intergovernmental or interdepartmental policies or programs;
  - (iii) as liaison between the governor and the state Legislature to coordinate and facilitate the governor's programs and budget requests;
  - (iv) as liaison between the governor and other officials of local, state, federal, and international governments or any other political entities to coordinate, facilitate, and protect the interests of the state;
  - (v) as personal advisor to the governor, including advice on policies, programs, administrative and personnel matters, and fiscal or budgetary matters; and
  - (vi) as chairperson or member of any temporary or permanent boards, councils, commissions, committees, task forces, or other group appointed by the governor;
- (b) serve on all boards and commissions in lieu of the governor, whenever so designated by the governor;
- (c) serve as the chief election officer of the state as required by Subsection (2);
- (d) keep custody of the Great Seal of the State of Utah;
- (e) keep a register of, and attest, the official acts of the governor;
- (f) affix the Great Seal, with an attestation, to all official documents and instruments to which the official signature of the governor is required; and
- (g) furnish a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in the office of the lieutenant governor to any person who requests it and pays the fee.

(2)

- (a) As the chief election officer, the lieutenant governor shall:
  - (i) exercise oversight, and general supervisory authority, over all elections;
  - (ii) exercise direct authority over the conduct of elections for federal, state, and multicounty officers and statewide or multicounty ballot propositions and any recounts involving those races;
  - (iii) establish uniformity in the election ballot;
  - (iv)
    - (A) prepare election information for the public as required by law and as determined appropriate by the lieutenant governor; and
    - (B) make the information described in Subsection (2)(a)(iv)(A) available to the public and to news media, on the Internet, and in other forms as required by law and as determined appropriate by the lieutenant governor;

- (v) receive and answer election questions and maintain an election file on opinions received from the attorney general;
  - (vi) maintain a current list of registered political parties as defined in Section 20A-8-101;
  - (vii) maintain election returns and statistics;
  - (viii) certify to the governor the names of individuals nominated to run for, or elected to, office;
  - (ix) ensure that all voting equipment purchased by the state complies with the requirements of Sections 20A-5-302, 20A-5-802, and 20A-5-803;
  - (x) during a declared emergency, to the extent that the lieutenant governor determines it warranted, designate, as provided in Section 20A-1-308, a different method, time, or location relating to:
    - (A) voting on election day;
    - (B) early voting;
    - (C) the transmittal or voting of an absentee ballot or military-overseas ballot;
    - (D) the counting of an absentee ballot or military-overseas ballot; or
    - (E) the canvassing of election returns; and
  - (xi) exercise all other election authority, and perform other election duties, as provided in Title 20A, Election Code.
- (b) As chief election officer, the lieutenant governor:
- (i) shall oversee all elections, and functions relating to elections, in the state;
  - (ii) shall, in accordance with Section 20A-1-105, take action to enforce compliance by an election officer with legal requirements relating to elections; and
  - (iii) may not assume the responsibilities assigned to the county clerks, city recorders, town clerks, or other local election officials by Title 20A, Election Code.
- (3)
- (a) The lieutenant governor shall:
- (i) determine a new municipality's classification under Section 10-2-301 upon the city's incorporation under Title 10, Chapter 2a, Part 2, Incorporation of a Municipality, based on the municipality's population using the population estimate from the Utah Population Committee; and
  - (ii)
    - (A) prepare a certificate indicating the class in which the new municipality belongs based on the municipality's population; and
    - (B) within 10 days after preparing the certificate, deliver a copy of the certificate to the municipality's legislative body.
- (b) The lieutenant governor shall:
- (i) determine the classification under Section 10-2-301 of a consolidated municipality upon the consolidation of multiple municipalities under Title 10, Chapter 2, Part 6, Consolidation of Municipalities, using population information for each municipality from:
    - (A) the estimate of the Utah Population Committee created in Section 63C-20-103; or
    - (B) if the Utah Population Committee estimate is not available, the census or census estimate of the United States Bureau of the Census; and
  - (ii)
    - (A) prepare a certificate indicating the class in which the consolidated municipality belongs based on the municipality's population; and
    - (B) within 10 days after preparing the certificate, deliver a copy of the certificate to the consolidated municipality's legislative body.
- (c) The lieutenant governor shall monitor the population of each municipality using population information from:

- (i) the estimate of the Utah Population Committee created in Section 63C-20-103; or
  - (ii) if the Utah Population Committee estimate is not available, the census or census estimate of the United States Bureau of the Census.
- (d) If the applicable population figure under Subsection (3)(b) or (c) indicates that a municipality's population has increased beyond the population for its current class, the lieutenant governor shall:
- (i) prepare a certificate indicating the class in which the municipality belongs based on the increased population figure; and
  - (ii) within 10 days after preparing the certificate, deliver a copy of the certificate to the legislative body of the municipality whose class has changed.
- (e)
- (i) If the applicable population figure under Subsection (3)(b) or (c) indicates that a municipality's population has decreased below the population for its current class, the lieutenant governor shall send written notification of that fact to the municipality's legislative body.
  - (ii) Upon receipt of a petition under Subsection 10-2-302(2) from a municipality whose population has decreased below the population for its current class, the lieutenant governor shall:
    - (A) prepare a certificate indicating the class in which the municipality belongs based on the decreased population figure; and
    - (B) within 10 days after preparing the certificate, deliver a copy of the certificate to the legislative body of the municipality whose class has changed.

Amended by Chapter 400, 2025 General Session

**67-1a-2.2 Residences in more than one district -- Lieutenant governor to resolve.**

- (1) If, in reviewing a map generated from a redistricting block assignment file, the lieutenant governor determines that a single-family or multi-family residence is within more than one Congressional, Senate, House, or State Board of Education district, the lieutenant governor may, by January 31, 2012, and in consultation with the Utah Geospatial Resource Center, determine the district to which the residence is assigned.
- (2) In order to make the determination required by Subsection (1), the lieutenant governor shall review the block assignment file and other Bureau of the Census data and obtain and review other relevant data such as aerial photography or other data about the area.
- (3) Upon making the determination authorized by this section, the lieutenant governor shall notify county clerks affected by the determination and the Utah Geospatial Resource Center created under Section 63A-16-505.

Amended by Chapter 162, 2021 General Session

Amended by Chapter 345, 2021 General Session

**67-1a-2.5 Fees of lieutenant governor.**

In addition to the fees prescribed by Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, and Title 16, Chapter 10a, Utah Revised Business Corporation Act, the lieutenant governor shall receive and determine fees pursuant to Section 63J-1-504 for the following:

- (1) for a copy of any law, resolution, record, or other document or paper on file in the lieutenant governor's office, other than documents or papers filed under Title 16, Chapter 6a, Utah

Revised Nonprofit Corporation Act, and Title 16, Chapter 10a, Utah Revised Business Corporation Act;

- (2) for affixing certificate and the Great Seal of the state, except on documents filed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, and Title 16, Chapter 10a, Utah Revised Business Corporation Act;
- (3) for each commission signed by the governor, except that no charge may be made for commissions to public officers serving without compensation;
- (4) for each warrant of arrest issued by the governor and attested by the lieutenant governor upon the requisition of any other state or territory;
- (5) for recording miscellaneous papers or documents;
- (6) for filing any paper or document not otherwise provided for; and
- (7) for searching records and archives of the state, except that no member of the Legislature or other state or county officer may be charged for any search relative to matters appertaining to the duties of the member or officer's office or for a certified copy of any law or resolution relative to the member or officer's official duties passed by the Legislature.

Amended by Chapter 183, 2009 General Session

**67-1a-3 Employment of personnel.**

The lieutenant governor, with the approval of the governor, may employ personnel necessary to carry out the duties and responsibilities of the lieutenant governor's office.

Amended by Chapter 18, 2022 General Session

**67-1a-5 Budget proposal.**

The lieutenant governor shall prepare and submit to the governor a proposed budget to be included in the budget submitted by the governor to the Legislature for the fiscal year following the convening of the Legislature in annual general session.

Amended by Chapter 21, 1985 General Session

**67-1a-6 Designation as secretary of state -- Duties.**

- (1) When required by local, state, federal, or international law, the lieutenant governor is hereby designated the secretary of state of Utah and shall perform the duties and functions required by such laws, including attesting or certifying documents, recording or filing laws, documents, and other papers; and receiving appointments for service of legal process as provided by law.
- (2) Any reference in the laws of the state to the office of the secretary of state is a reference to the office of lieutenant governor.

Enacted by Chapter 68, 1984 General Session

**67-1a-6.5 Certification of local entity boundary actions -- Definitions -- Notice requirements -- Electronic copies -- Filing.**

- (1) As used in this section:
  - (a) "Applicable certificate" means:
    - (i) for the impending incorporation of a city, town, special district, conservation district, incorporation of a special district from a reorganized special service district, or public infrastructure district, a certificate of incorporation;



- (ii) for the impending creation of a county, school district, special service district, community reinvestment agency, or interlocal entity, a certificate of creation;
- (iii) for the impending annexation of territory to an existing local entity, a certificate of annexation;
- (iv) for the impending withdrawal or disconnection of territory from an existing local entity, a certificate of withdrawal or disconnection, respectively;
- (v) for the impending consolidation of multiple local entities, a certificate of consolidation;
- (vi) for the impending division of a local entity into multiple local entities, a certificate of division;
- (vii) for the impending adjustment of a common boundary between local entities, a certificate of boundary adjustment; and
- (viii) for the impending dissolution of a local entity, a certificate of dissolution.
- (b) "Approved final local entity plat" means a final local entity plat, as defined in Section 17-23-20, that has been approved under Section 17-23-20 as a final local entity plat by the county surveyor.
- (c) "Approving authority" has the same meaning as defined in Section 17-23-20.
- (d) "Boundary action" has the same meaning as defined in Section 17-23-20.
- (e) "Center" means the Utah Geospatial Resource Center created under Section 63A-16-505.
- (f) "Community reinvestment agency" has the same meaning as defined in Section 17C-1-102.
- (g) "Conservation district" has the same meaning as defined in Section 17D-3-102.
- (h) "Interlocal entity" has the same meaning as defined in Section 11-13-103.
- (i) "Local entity" means a county, city, town, school district, special district, community reinvestment agency, special service district, conservation district, or interlocal entity.
- (j) "Notice of an impending boundary action" means a written notice, as described in Subsection (3), that provides notice of an impending boundary action.
- (k) "Special district" means the same as that term is defined in Section 17B-1-102.
- (l) "Special service district" means the same as that term is defined in Section 17D-1-102.
- (2) Within 10 days after receiving a notice of an impending boundary action, the lieutenant governor shall:
  - (a)
    - (i) issue the applicable certificate, if:
      - (A) the lieutenant governor determines that the notice of an impending boundary action meets the requirements of Subsection (3); and
      - (B) except in the case of an impending local entity dissolution, the notice of an impending boundary action is accompanied by an approved final local entity plat;
    - (ii) send the applicable certificate to the local entity's approving authority;
    - (iii) return the original of the approved final local entity plat to the local entity's approving authority;
    - (iv) send a copy of the applicable certificate and approved final local entity plat to:
      - (A) the State Tax Commission;
      - (B) the center; and
      - (C) the county assessor, county surveyor, county auditor, and county attorney of each county in which the property depicted on the approved final local entity plat is located; and
    - (v) send a copy of the applicable certificate to the state auditor, if the boundary action that is the subject of the applicable certificate is:
      - (A) the incorporation or creation of a new local entity;
      - (B) the consolidation of multiple local entities;
      - (C) the division of a local entity into multiple local entities; or
      - (D) the dissolution of a local entity; or

- (b)
  - (i) send written notification to the approving authority that the lieutenant governor is unable to issue the applicable certificate, if:
    - (A) the lieutenant governor determines that the notice of an impending boundary action does not meet the requirements of Subsection (3); or
    - (B) the notice of an impending boundary action is:
      - (I) not accompanied by an approved final local entity plat; or
      - (II) accompanied by a plat or final local entity plat that has not been approved as a final local entity plat by the county surveyor under Section 17-23-20; and
  - (ii) explain in the notification under Subsection (2)(b)(i) why the lieutenant governor is unable to issue the applicable certificate.
- (3) Each notice of an impending boundary action shall:
  - (a) be directed to the lieutenant governor;
  - (b) contain the name of the local entity or, in the case of an incorporation or creation, future local entity, whose boundary is affected or established by the boundary action;
  - (c) describe the type of boundary action for which an applicable certificate is sought;
  - (d) be accompanied by a letter from the Utah State Retirement Office, created under Section 49-11-201, to the approving authority that identifies the potential provisions under Title 49, Utah State Retirement and Insurance Benefit Act, that the local entity shall comply with, related to the boundary action, if the boundary action is an impending incorporation or creation of a local entity that may result in the employment of personnel; and
- (e)
  - (i) contain a statement, signed and verified by the approving authority, certifying that all requirements applicable to the boundary action have been met; or
  - (ii) in the case of the dissolution of a municipality, be accompanied by a certified copy of the court order approving the dissolution of the municipality.
- (4) The lieutenant governor may require the approving authority to submit a paper or electronic copy of a notice of an impending boundary action and approved final local entity plat in conjunction with the filing of the original of those documents.
- (5)
  - (a) The lieutenant governor shall:
    - (i) keep, index, maintain, and make available to the public each notice of an impending boundary action, approved final local entity plat, applicable certificate, and other document that the lieutenant governor receives or generates under this section;
    - (ii) make a copy of each document listed in Subsection (5)(a)(i) available on the Internet for 12 months after the lieutenant governor receives or generates the document;
    - (iii) furnish a paper copy of any of the documents listed in Subsection (5)(a)(i) to any person who requests a paper copy; and
    - (iv) furnish a certified copy of any of the documents listed in Subsection (5)(a)(i) to any person who requests a certified copy.
  - (b) The lieutenant governor may charge a reasonable fee for a paper copy or certified copy of a document that the lieutenant governor provides under this Subsection (5).
- (6) The lieutenant governor's issuance of a certificate of creation for an infrastructure financing district constitutes the state's approval of the creation of the infrastructure financing district.

Amended by Chapter 347, 2025 General Session

**67-1a-6.7 Certification of local entity name change.**

- (1) As used in this section:
  - (a) "Approving authority" means the person or body authorized under statute to approve the local entity's name change.
  - (b) "Center" has the same meaning as defined in Section 67-1a-6.5.
  - (c) "Certificate of name change" means a certificate issued by the lieutenant governor certifying a local entity's change of name.
  - (d) "Local entity" has the same meaning as defined in Section 67-1a-6.5.
  - (e) "Notice of an impending name change" means a notice, as described in Subsection (3), that provides notice of a local entity's impending name change.
- (2) Within 10 days after receiving a notice of an impending name change, the lieutenant governor shall:
  - (a) issue a certificate of name change;
  - (b) send the certificate of name change to the approving authority of the local entity whose name is being changed; and
  - (c) send a copy of the certificate of name change to:
    - (i) the State Tax Commission;
    - (ii) the state auditor;
    - (iii) the center; and
    - (iv) the county assessor, county surveyor, county auditor, and county attorney of each county in which any part of the local entity is located.
- (3) Each notice of an impending name change shall:
  - (a) be directed to the lieutenant governor;
  - (b) contain the current name of the local entity;
  - (c) state the name to which the local entity intends to change;
  - (d) identify each county in which any part of the local entity is located; and
  - (e) contain a statement, signed and verified by the approving authority, certifying that all requirements applicable to the name change have been met.
- (4)
  - (a) The lieutenant governor shall:
    - (i) keep, index, maintain, and make available to the public each notice of an impending name change, certificate of a name change, and other document that the lieutenant governor receives or generates under this section;
    - (ii) make a copy of each document listed in Subsection (4)(a)(i) available on the Internet for 12 months after the lieutenant governor receives or generates the document;
    - (iii) furnish a paper copy of any of the documents listed in Subsection (4)(a)(i) to any person who requests a paper copy; and
    - (iv) furnish a certified copy of any of the documents listed in Subsection (4)(a)(i) to any person who requests a certified copy.
  - (b) The lieutenant governor may charge a reasonable fee for a paper copy or certified copy of a document that the lieutenant governor provides under this Subsection (4).

Enacted by Chapter 350, 2009 General Session

#### **67-1a-7 Use and custody of great seal.**

Except as otherwise provided by law, the lieutenant governor, or the lieutenant governor's designee, is authorized to use or affix the Great Seal of this state to any document whatever and only in pursuance of law, and is responsible for its safekeeping. Any person who illegally uses the Great Seal of this state, or such seal when defaced, is guilty of a felony.

Enacted by Chapter 68, 1984 General Session

**67-1a-8 Form and contents of great seal.**

The Great Seal of the State of Utah shall be 2-1/2 inches in diameter, and of the following device: the center a shield and perched thereon an American eagle with outstretching wings; the top of the shield pierced by six arrows crosswise; under the arrows the motto "Industry"; beneath the motto a beehive, on either side growing sego lilies; below the beehive the figures "1847"; and on each side of the shield an American flag; encircling all, near the outer edge of the seal, beginning at the lower left-hand portion, the words "The Great Seal of the State of Utah," with the figures "1896" at the base.

Enacted by Chapter 68, 1984 General Session

**67-1a-12 Authority to administer oaths.**

The lieutenant governor and personnel employed under Section 67-1a-3, who are designated by the lieutenant governor, may administer oaths when necessary in the performance of official duties.

Enacted by Chapter 5, 2008 General Session

**67-1a-13 Certification restrictions.**

The lieutenant governor may not certify a signature of a notary or county recorder on:

- (1) a document that is not properly notarized, if notarization is required; or
- (2) a document regarding:
  - (a) allegiance to a government or jurisdiction;
  - (b) sovereignty;
  - (c) in itinere status or world service authority; or
  - (d) a claim similar to a claim listed in Subsections (2)(a) through (c).

Enacted by Chapter 333, 2010 General Session

**67-1a-15 Local government and limited purpose entity registry.**

(1) As used in this section:

- (a) "Entity" means a limited purpose entity or a local government entity.
- (b)
  - (i) "Limited purpose entity" means a legal entity that:
    - (A) performs a single governmental function or limited governmental functions; and
    - (B) is not a state executive branch agency, a state legislative office, or within the judicial branch.
  - (ii) "Limited purpose entity" includes:
    - (A) area agencies, area agencies on aging, and area agencies on high risk adults, as those terms are defined in Section 26B-6-101;
    - (B) charter schools created under Title 53G, Chapter 5, Charter Schools;
    - (C) community reinvestment agencies, as that term is defined in Section 17C-1-102;
    - (D) conservation districts, as that term is defined in Section 17D-3-102;
    - (E) governmental nonprofit corporations, as that term is defined in Section 11-13a-102;
    - (F) housing authorities, as that term is defined in Section 35A-8-401;

- (G) independent entities and independent state agencies, as those terms are defined in Section 63E-1-102;
  - (H) interlocal entities, as that term is defined in Section 11-13-103;
  - (I) local building authorities, as that term is defined in Section 17D-2-102;
  - (J) special districts, as that term is defined in Section 17B-1-102;
  - (K) local health departments, as that term is defined in Section 26A-1-102;
  - (L) local mental health authorities, as that term is defined in Section 62A-15-102;
  - (M) nonprofit corporations that receive an amount of money requiring an accounting report under Section 51-2a-201.5;
  - (N) school districts under Title 53G, Chapter 3, School District Creation and Change;
  - (O) special service districts, as that term is defined in Section 17D-1-102; and
  - (P) substance abuse authorities, as that term is defined in Section 62A-15-102.
- (c) "Local government and limited purpose entity registry" or "registry" means the registry of local government entities and limited purpose entities created under this section.
- (d) "Local government entity" means:
- (i) a county, as that term is defined in Section 17-50-101; and
  - (ii) a municipality, as that term is defined in Section 10-1-104.
- (e) "Notice of failure to register" means the notice the lieutenant governor sends, in accordance with Subsection (7)(a), to an entity that does not register.
- (f) "Notice of failure to renew" means the notice the lieutenant governor sends to a registered entity, in accordance with Subsection (7)(b).
- (g) "Notice of noncompliance" means the notice the lieutenant governor sends to a registered entity, in accordance with Subsection (6)(c).
- (h) "Notice of non-registration" means the notice the lieutenant governor sends to an entity and the state auditor, in accordance with Subsection (9).
- (i) "Notice of registration or renewal" means the notice the lieutenant governor sends, in accordance with Subsection (6)(b)(i).
- (j) "Registered entity" means an entity with a valid registration as described in Subsection (8).
- (2) The lieutenant governor shall:
- (a) create a registry of each local government entity and limited purpose entity within the state that:
    - (i) contains the information described in Subsection (4); and
    - (ii) is accessible on the lieutenant governor's website or otherwise publicly available; and
  - (b) establish fees for registration and renewal, in accordance with Section 63J-1-504, based on and to directly offset the cost of creating, administering, and maintaining the registry.
- (3) Each local government entity and limited purpose entity shall:
- (a) on or before July 1, 2019, register with the lieutenant governor as described in Subsection (4);
  - (b) on or before one year after the day on which the lieutenant governor issues the notice of registration or renewal, annually renew the entity's registration in accordance with Subsection (5); and
  - (c) on or before 30 days after the day on which any of the information described in Subsection (4) changes, send notice of the changes to the lieutenant governor.
- (4) Each entity shall include the following information in the entity's registration submission:
- (a) the resolution or other legal or formal document creating the entity or, if the resolution or other legal or formal document creating the entity cannot be located, conclusive proof of the entity's lawful creation;
  - (b) if the entity has geographic boundaries, a map or plat identifying the current geographic boundaries of the entity, or if it is impossible or unreasonably expensive to create a map or

- plat, a metes and bounds description, or another legal description that identifies the current boundaries of the entity;
  - (c) the entity's name;
  - (d) the entity's type of local government entity or limited purpose entity;
  - (e) the entity's governmental function;
  - (f) the entity's website, physical address, and phone number, including the name and contact information of an individual whom the entity designates as the primary contact for the entity;
  - (g)
    - (i) names, email addresses, and phone numbers of the members of the entity's governing board or commission, managing officers, or other similar managers and the method by which the members or officers are appointed, elected, or otherwise designated;
    - (ii) the date of the most recent appointment or election of each entity governing board or commission member; and
    - (iii) the date of the anticipated end of each entity governing board or commission member's term;
  - (h) the entity's sources of revenue; and
  - (i) if the entity has created an assessment area, as that term is defined in Section 11-42-102, information regarding the creation, purpose, and boundaries of the assessment area.
- (5) Each entity shall include the following information in the entity's renewal submission:
- (a) identify and update any incorrect or outdated information the entity previously submitted during registration under Subsection (4); or
  - (b) certify that the information the entity previously submitted during registration under Subsection (4) is correct without change.
- (6) Within 30 days of receiving an entity's registration or renewal submission, the lieutenant governor shall:
- (a) review the submission to determine compliance with Subsection (4) or (5);
  - (b) if the lieutenant governor determines that the entity's submission complies with Subsection (4) or (5):
    - (i) send a notice of registration or renewal that includes the information that the entity submitted under Subsection (4) or (5) to:
      - (A) the registering or renewing entity;
      - (B) each county in which the entity operates, either in whole or in part, or where the entity's geographic boundaries overlap or are contained within the boundaries of the county;
      - (C) the Division of Archives and Records Service; and
      - (D) the Office of the Utah State Auditor; and
    - (ii) publish the information from the submission on the registry, except any email address or phone number that is personal information as defined in Section 63G-2-303; and
  - (c) if the lieutenant governor determines that the entity's submission does not comply with Subsection (4) or (5) or is otherwise inaccurate or deficient, send a notice of noncompliance to the registering or renewing entity that:
    - (i) identifies each deficiency in the entity's submission with the corresponding statutory requirement;
    - (ii) establishes a deadline to cure the entity's noncompliance that is the first business day that is at least 30 calendar days after the day on which the lieutenant governor sends the notice of noncompliance; and
    - (iii) states that failure to comply by the deadline the lieutenant governor establishes under Subsection (6)(c)(ii) will result in the lieutenant governor sending a notice of non-registration to the Office of the Utah State Auditor, in accordance with Subsection (9).

- (7)
  - (a) If the lieutenant governor identifies an entity that does not make a registration submission in accordance with Subsection (4) by the deadline described in Subsection (3), the lieutenant governor shall send a notice of failure to register to the registered entity that:
    - (i) identifies the statutorily required registration deadline described in Subsection (3) that the entity did not meet;
    - (ii) establishes a deadline to cure the entity's failure to register that is the first business day that is at least 10 calendar days after the day on which the lieutenant governor sends the notice of failure to register; and
    - (iii) states that failure to comply by the deadline the lieutenant governor establishes under Subsection (7)(a)(ii) will result in the lieutenant governor sending a notice of non-registration to the Office of the Utah State Auditor, in accordance with Subsection (9).
  - (b) If a registered entity does not make a renewal submission in accordance with Subsection (5) by the deadline described in Subsection (3), the lieutenant governor shall send a notice of failure to renew to the registered entity that:
    - (i) identifies the renewal deadline described in Subsection (3) that the entity did not meet;
    - (ii) establishes a deadline to cure the entity's failure to renew that is the first business day that is at least 30 calendar days after the day on which the lieutenant governor sends the notice of failure to renew; and
    - (iii) states that failure to comply by the deadline the lieutenant governor establishes under Subsection (7)(b)(ii) will result in the lieutenant governor sending a notice of non-registration to the Office of the Utah State Auditor, in accordance with Subsection (9).
- (8) An entity's registration is valid:
  - (a) if the entity makes a registration or renewal submission in accordance with the deadlines described in Subsection (3);
  - (b) during the period the lieutenant governor establishes in the notice of noncompliance or notice of failure to renew during which the entity may cure the identified registration deficiencies; and
  - (c) for one year beginning on the day the lieutenant governor issues the notice of registration or renewal.
- (9)
  - (a) The lieutenant governor shall send a notice of non-registration to the Office of the Utah State Auditor if an entity fails to:
    - (i) cure the entity's noncompliance by the deadline the lieutenant governor establishes in the notice of noncompliance;
    - (ii) register by the deadline the lieutenant governor establishes in the notice of failure to register; or
    - (iii) cure the entity's failure to renew by the deadline the lieutenant governor establishes in the notice of failure to renew.
  - (b) The lieutenant governor shall ensure that the notice of non-registration:
    - (i) includes a copy of the notice of noncompliance, the notice of failure to register, or the notice of failure to renew; and
    - (ii) requests that the state auditor withhold state allocated funds or the disbursement of property taxes and prohibit the entity from accessing money held by the state or money held in an account of a financial institution, in accordance with Subsections 67-3-1(7)(i) and 67-3-1(10).
- (10) The lieutenant governor may extend a deadline under this section if an entity notifies the lieutenant governor, before the deadline to be extended, of the existence of an extenuating circumstance that is outside the control of the entity.

(11)

- (a) An entity is not required to renew submission of a registration under this section if an entity provides a record of dissolution.
- (b) The lieutenant governor shall include in the registry an entity's record of dissolution and indicate on the registry that the entity is dissolved.

Amended by Chapter 16, 2023 General Session

## **Chapter 1b**

### **Transition to New Gubernatorial Administration**

#### **67-1b-101 Title.**

This chapter is known as "Transition to New Gubernatorial Administration."

Enacted by Chapter 394, 2021 General Session

#### **67-1b-102 Definitions.**

As used in this chapter:

- (1) "Board of canvassers" means the state board of canvassers created in Section 20A-4-306.
- (2)
  - (a) "Executive branch" means:
    - (i) the governor, the governor's staff, and the governor's appointed advisors;
    - (ii) the lieutenant governor and lieutenant governor's staff;
    - (iii) cabinet level officials;
    - (iv) except as provided in Subsection (2)(b), an agency, board, department, division, committee, commission, council, office, or other administrative subunit of the executive branch of state government;
    - (v) except as provided in Subsection (2)(b), a cabinet officer, elected official, executive director, or board or commission vested with:
      - (A) policy making and oversight responsibility for a state executive branch agency; or
      - (B) authority to appoint and remove the director of a state executive branch agency;
    - (vi) executive ministerial officers;
    - (vii) each gubernatorial appointee to a state board, committee, commission, council, or authority;
    - (viii) each executive branch management position, as defined in Section 67-1-1.5;
    - (ix) each executive branch policy position, as defined in Section 67-1-1.5; and
    - (x) the military forces of the state.
  - (b) "Executive branch" does not include:
    - (i) the legislative branch;
    - (ii) the judicial branch;
    - (iii) the State Board of Education;
    - (iv) the Utah Board of Higher Education;
    - (v) institutions of higher education;
    - (vi) independent entities as defined in Section 63E-1-102;
    - (vii) elective constitutional offices of the executive department, including the state auditor, the state treasurer, and the attorney general;



- (viii) a county, municipality, school district, special district, or special service district; or
- (ix) an administrative subdivision of a county, municipality, school district, special district, or special service district.
- (3) "Governor-elect" means, during a transition period, an individual whom the board of canvassers determines to be the successful candidate for governor after a general election for the office of governor, if that successful candidate is an individual other than the incumbent governor.
- (4) "Governor-elect's staff" means:
  - (a) an individual that a governor-elect intends to nominate as a department head;
  - (b) an individual that a governor-elect intends to appoint to a key position in the executive branch;
  - (c) an individual hired by a governor-elect under Subsection 67-1b-105(1)(c); and
  - (d) any other individual expressly engaged by the governor-elect to assist with the governor-elect's transition into the office of governor.
- (5) "Governor's Office of Planning and Budget" means the office created in Section 63J-4-201.
- (6) "Incoming gubernatorial administration" means a governor-elect, a governor-elect's staff, a lieutenant governor-elect, and a lieutenant governor-elect's staff.
- (7) "Lieutenant governor-elect" means, during a transition period, an individual whom the board of canvassers determines to be the successful candidate for lieutenant governor after a general election for the office of lieutenant governor, if that successful candidate is an individual other than the incumbent lieutenant governor.
- (8) "Lieutenant governor-elect's staff" means:
  - (a) an individual hired by a lieutenant governor-elect under Subsection 67-1b-105(1)(c); and
  - (b) any other individual expressly engaged by the lieutenant governor-elect to assist with the lieutenant governor-elect's transition into the office of lieutenant governor.
- (9) "Office of the Legislative Fiscal Analyst" means the office created in Section 36-12-13.
- (10) "Record" means the same as that term is defined in Section 63G-2-103.
- (11) "Transition period" means the period of time beginning the day after the meeting of the board of canvassers under Section 20A-4-306 in a year in which the board of canvassers determines that the successful candidate for governor is an individual other than the incumbent governor, and ending on the first Monday of the next January.

Amended by Chapter 16, 2023 General Session

#### **67-1b-103 Applicability.**

- (1) Except as otherwise provided, this chapter applies when there is a transition from the administration of one governor to the administration of the next governor following a regular general election at which a new governor is elected.
- (2) Except as otherwise provided, this chapter does not apply:
  - (a) to a transition from the administration of one governor to the administration of another governor due to a vacancy in the office of governor under Utah Constitution, Article VII, Section 11; or
  - (b) if the successful candidate for governor is the incumbent governor.

Enacted by Chapter 394, 2021 General Session

#### **67-1b-104 Duties during transition period.**

- (1) During a transition period, the executive branch shall:
  - (a) provide any lawful assistance that the incoming gubernatorial administration may reasonably request related to the transition between gubernatorial administrations; and

- (b) take reasonable steps to:
  - (i) avoid or minimize disruptions that might be occasioned by a transition between gubernatorial administrations; and
  - (ii) facilitate an efficient transition between gubernatorial administrations.
- (2) During a transition period, the incoming gubernatorial administration shall take reasonable steps to:
  - (a) avoid or minimize disruptions that might be occasioned by a transition between gubernatorial administrations; and
  - (b) facilitate an efficient transition between gubernatorial administrations.
- (3)
  - (a) During a transition period, the executive branch shall timely provide a governor-elect, upon the governor-elect's request, with all records and information from the executive branch upon any subject relating to the executive branch's condition, expenditures, expenses, management, operations, personnel, and receipts.
  - (b) For a record requested by a governor-elect under Subsection (3)(a) that is classified as private or protected under Title 63G, Chapter 2, Government Records Access and Management Act, there is a rebuttable presumption that disclosure of the record to the governor-elect meets the conditions for disclosure under Subsection 63G-2-201(5).
  - (c) A governor-elect who receives records under this Subsection (3) is subject to the provisions of Title 63G, Chapter 2, Government Records Access and Management Act, governing the use and disclosure of records.
  - (d) The disclosure of a record that is classified as private or protected to a governor-elect does not affect the classification of that record under Title 63G, Chapter 2, Government Records Access and Management Act.

Enacted by Chapter 394, 2021 General Session

#### **67-1b-105 Appropriations.**

- (1)
  - (a) There is created a restricted account in the General Fund known as the "Gubernatorial Transition Account."
  - (b) The account created in Subsection (1)(a) shall be funded by appropriations made to the account by the Legislature.
  - (c) The Department of Government Operations shall administer the Gubernatorial Transition Account and shall make money in the Gubernatorial Transition Account available to an incoming gubernatorial administration to use for expenses reasonably related to fulfilling the incoming gubernatorial administration's duties under Subsection 67-1b-104(2), including:
    - (i) office space;
    - (ii) fixtures, furniture, office supplies, office machines, equipment, or information and communication systems used in the office space described in Subsection (1)(c)(i);
    - (iii) mobile computing devices, including mobile phones, tablet computers, or laptop computers used by the incoming gubernatorial administration; or
    - (iv) hiring employees to assist with transition efforts.
  - (d) Interest or other earnings derived from the Gubernatorial Transition Account shall be deposited in the General Fund.
- (2) Any unexpended balance of an appropriation made under this section is nonlapsing.

Enacted by Chapter 394, 2021 General Session

### **67-1b-106 Governor's budget.**

- (1) During a transition period:
  - (a) the governor-elect is entitled to participate in all executive branch budget meetings;
  - (b) subject to Title 63G, Chapter 2, Government Records Access and Management Act, the executive branch shall make records and information related to the preparation of the governor's confidential draft proposed budget available to the governor-elect; and
  - (c) the incumbent governor shall consider any proposed additions or changes from the governor-elect in preparing the governor's confidential draft proposed budget recommendations to be submitted to the Office of Legislative Fiscal Analyst in accordance with Section 63J-1-201.
- (2)
  - (a) If the governor-elect proposes additions or changes to the governor that are not adopted by the governor in preparing the governor's confidential draft proposed budget recommendations, the governor-elect may prepare confidential proposed additions or changes and submit them to the Office of the Legislative Fiscal Analyst concurrent with the governor's confidential draft proposed budget recommendations.
  - (b) The Governor's Office of Planning and Budget shall, at the request of the governor-elect, assist the governor-elect in preparing confidential proposed additions or changes to the incumbent governor's draft proposed budget recommendations for submission to the Office of the Legislative Fiscal Analyst.
- (3)
  - (a) After the incumbent governor's confidential draft proposed budget recommendations are submitted to the Office of the Legislative Fiscal Analyst, the governor-elect is responsible for preparing the proposed budget to be submitted to the presiding officers of each house of the Legislature in accordance with Section 63J-1-201, and shall submit the proposed budget to the presiding officers of each house of the Legislature after assuming the office of governor.
  - (b) The executive branch shall provide the governor-elect with any assistance reasonably requested by the governor-elect to prepare the proposed budget to be submitted to the presiding officers of each house of the Legislature.
  - (c) A governor whose term ends following a transition period may not submit a proposed budget to the presiding officers of each house of the Legislature.

Enacted by Chapter 394, 2021 General Session

## **Chapter 3**

### **Auditor**

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

- (1)
  - (a) The state auditor is the auditor of public accounts and is independent of any executive or administrative officers of the state.
  - (b) The state auditor is not limited in the selection of personnel or in the determination of the reasonable and necessary expenses of the state auditor's office.
- (2) The state auditor shall examine and certify annually in respect to each fiscal year, financial statements showing:
  - (a) the condition of the state's finances;

- (b) the revenues received or accrued;
  - (c) expenditures paid or accrued;
  - (d) the amount of unexpended or unencumbered balances of the appropriations to the agencies, departments, divisions, commissions, and institutions; and
  - (e) the cash balances of the funds in the custody of the state treasurer.
- (3)
- (a) The state auditor shall:
    - (i) audit each permanent fund, each special fund, the General Fund, and the accounts of any department of state government or any independent agency or public corporation as the law requires, as the auditor determines is necessary, or upon request of the governor or the Legislature;
    - (ii) perform the audits in accordance with generally accepted auditing standards and other auditing procedures as promulgated by recognized authoritative bodies; and
    - (iii) as the auditor determines is necessary, conduct the audits to determine:
      - (A) honesty and integrity in fiscal affairs;
      - (B) accuracy and reliability of financial statements;
      - (C) effectiveness and adequacy of financial controls; and
      - (D) compliance with the law.
  - (b) If any state entity receives federal funding, the state auditor shall ensure that the audit is performed in accordance with federal audit requirements.
  - (c)
    - (i) The costs of the federal compliance portion of the audit may be paid from an appropriation to the state auditor from the General Fund.
    - (ii) If an appropriation is not provided, or if the federal government does not specifically provide for payment of audit costs, the costs of the federal compliance portions of the audit shall be allocated on the basis of the percentage that each state entity's federal funding bears to the total federal funds received by the state.
    - (iii) The allocation shall be adjusted to reflect any reduced audit time required to audit funds passed through the state to local governments and to reflect any reduction in audit time obtained through the use of internal auditors working under the direction of the state auditor.
- (4)
- (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to financial audits, and as the auditor determines is necessary, conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds, including a determination of any or all of the following:
    - (i) the honesty and integrity of all the entity's fiscal affairs;
    - (ii) whether the entity's administrators have faithfully complied with legislative intent;
    - (iii) whether the entity's operations have been conducted in an efficient, effective, and cost-efficient manner;
    - (iv) whether the entity's programs have been effective in accomplishing the intended objectives; and
    - (v) whether the entity's management, control, and information systems are adequate, effective, and secure.
  - (b) The auditor may not conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds if the entity:
    - (i) has an elected auditor; and
    - (ii) has, within the entity's last budget year, had the entity's financial statements or performance formally reviewed by another outside auditor.

- (5) The state auditor:
  - (a) shall administer any oath or affirmation necessary to the performance of the duties of the auditor's office; and
  - (b) may:
    - (i) subpoena witnesses and documents, whether electronic or otherwise; and
    - (ii) examine into any matter that the auditor considers necessary.
- (6) The state auditor may require all persons who have had the disposition or management of any property of this state or its political subdivisions to submit statements regarding the property at the time and in the form that the auditor requires.
- (7) The state auditor shall:
  - (a) except where otherwise provided by law, institute suits in Salt Lake County in relation to the assessment, collection, and payment of revenues against:
    - (i) persons who by any means have become entrusted with public money or property and have failed to pay over or deliver the money or property; and
    - (ii) all debtors of the state;
  - (b) collect and pay into the state treasury all fees received by the state auditor;
  - (c) perform the duties of a member of all boards of which the state auditor is a member by the constitution or laws of the state, and any other duties that are prescribed by the constitution and by law;
  - (d) stop the payment of the salary of any state official or state employee who:
    - (i) refuses to settle accounts or provide required statements about the custody and disposition of public funds or other state property;
    - (ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling board or department head with respect to the manner of keeping prescribed accounts or funds; or
    - (iii) fails to correct any delinquencies, improper procedures, and errors brought to the official's or employee's attention;
  - (e) establish accounting systems, methods, and forms for public accounts in all taxing or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;
  - (f) superintend the contractual auditing of all state accounts;
  - (g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that officials and employees in those taxing units comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds;
  - (h) subject to Subsection (9), withhold the disbursement of tax money from any county, if necessary, to ensure that officials and employees in the county comply with Section 59-2-303.1; and
  - (i) withhold state allocated funds or the disbursement of property taxes from a local government entity or a limited purpose entity, as those terms are defined in Section 67-1a-15 if the state auditor finds the withholding necessary to ensure that the entity registers and maintains the entity's registration with the lieutenant governor, in accordance with Section 67-1a-15.
- (8)
  - (a) Except as otherwise provided by law, the state auditor may not withhold funds under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.
  - (b) If, after receiving notice under Subsection (8)(a), a state or independent local fee-assessing unit that exclusively assesses fees has not made corrections to comply with state laws and

procedures in the budgeting, expenditures, and financial reporting of public funds, the state auditor:

- (i) shall provide a recommended timeline for corrective actions;
  - (ii) may prohibit the state or local fee-assessing unit from accessing money held by the state; and
  - (iii) may prohibit a state or local fee-assessing unit from accessing money held in an account of a financial institution by filing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial institution from providing the fee-assessing unit access to an account.
- (c) The state auditor shall remove a limitation on accessing funds under Subsection (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds.
- (d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with state law, the state auditor:
- (i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to comply;
  - (ii) may prohibit the taxing or fee-assessing unit from accessing money held by the state; and
  - (iii) may prohibit a taxing or fee-assessing unit from accessing money held in an account of a financial institution by:
    - (A) contacting the taxing or fee-assessing unit's financial institution and requesting that the institution prohibit access to the account; or
    - (B) filing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial institution from providing the taxing or fee-assessing unit access to an account.
- (e) If the local taxing or fee-assessing unit adopts a budget in compliance with state law, the state auditor shall eliminate a limitation on accessing funds described in Subsection (8)(d).
- (9) The state auditor may not withhold funds under Subsection (7)(h) until a county has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.
- (10)
- (a) The state auditor may not withhold funds under Subsection (7)(i) until the state auditor receives a notice of non-registration, as that term is defined in Section 67-1a-15.
  - (b) If the state auditor receives a notice of non-registration, the state auditor may prohibit the local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, from accessing:
    - (i) money held by the state; and
    - (ii) money held in an account of a financial institution by:
      - (A) contacting the entity's financial institution and requesting that the institution prohibit access to the account; or
      - (B) filing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial institution from providing the entity access to an account.
  - (c) The state auditor shall remove the prohibition on accessing funds described in Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in Section 67-1a-15, from the lieutenant governor.
- (11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the state auditor:
- (a) shall authorize a disbursement by a local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing unit if the disbursement is necessary to:

- (i) avoid a major disruption in the operations of the local government entity, limited purpose entity, or state or local taxing or fee-assessing unit; or
    - (ii) meet debt service obligations; and
  - (b) may authorize a disbursement by a local government entity, limited purpose entity, or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.
- (12)
- (a) The state auditor may seek relief under the Utah Rules of Civil Procedure to take temporary custody of public funds if an action is necessary to protect public funds from being improperly diverted from their intended public purpose.
  - (b) If the state auditor seeks relief under Subsection (12)(a):
    - (i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8); and
    - (ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a court orders the public funds to be protected from improper diversion from their public purpose.
- (13) The state auditor shall:
- (a) establish audit guidelines and procedures for audits of local mental health and substance abuse authorities and their contract providers, conducted pursuant to Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local Mental Health Authorities, Title 26B, Chapter 5, Health Care - Substance Use and Mental Health, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act; and
  - (b) ensure that those guidelines and procedures provide assurances to the state that:
    - (i) state and federal funds appropriated to local mental health authorities are used for mental health purposes;
    - (ii) a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for a local mental health authority is in compliance with state and local contract requirements and state and federal law;
    - (iii) state and federal funds appropriated to local substance abuse authorities are used for substance abuse programs and services; and
    - (iv) a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse programs or services for a local substance abuse authority is in compliance with state and local contract requirements, and state and federal law.
- (14)
- (a) The state auditor may, in accordance with the auditor's responsibilities for political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or investigations of any political subdivision that are necessary to determine honesty and integrity in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of financial controls and compliance with the law.
  - (b) If the state auditor receives notice under Subsection 11-41-104(7) from the Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor may initiate an audit or investigation of the public entity subject to the notice to determine compliance with Section 11-41-103.
- (15)
- (a) The state auditor may not audit work that the state auditor performed before becoming state auditor.
  - (b) If the state auditor has previously been a responsible official in state government whose work has not yet been audited, the Legislature shall:
    - (i) designate how that work shall be audited; and

- (ii) provide additional funding for those audits, if necessary.
- (16) The state auditor shall:
- (a) with the assistance, advice, and recommendations of an advisory committee appointed by the state auditor from among special district boards of trustees, officers, and employees and special service district boards, officers, and employees:
    - (i) prepare a Uniform Accounting Manual for Special Districts that:
      - (A) prescribes a uniform system of accounting and uniform budgeting and reporting procedures for special districts under Title 17B, Limited Purpose Local Government Entities - Special Districts, and special service districts under Title 17D, Chapter 1, Special Service District Act;
      - (B) conforms with generally accepted accounting principles; and
      - (C) prescribes reasonable exceptions and modifications for smaller districts to the uniform system of accounting, budgeting, and reporting;
    - (ii) maintain the manual under this Subsection (16)(a) so that the manual continues to reflect generally accepted accounting principles;
    - (iii) conduct a continuing review and modification of procedures in order to improve them;
    - (iv) prepare and supply each district with suitable budget and reporting forms; and
    - (v)
      - (A) prepare instructional materials, conduct training programs, and render other services considered necessary to assist special districts and special service districts in implementing the uniform accounting, budgeting, and reporting procedures; and
      - (B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title 63G, Chapter 22, State Training and Certification Requirements; and
  - (b) continually analyze and evaluate the accounting, budgeting, and reporting practices and experiences of specific special districts and special service districts selected by the state auditor and make the information available to all districts.
- (17)
- (a) The following records in the custody or control of the state auditor are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:
    - (i) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the state auditor through other documents or evidence, and the records relating to the allegation are not relied upon by the state auditor in preparing a final audit report;
    - (ii) records and audit workpapers to the extent the workpapers would disclose the identity of an individual who during the course of an audit, communicated the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the individual be protected;
    - (iii) before an audit is completed and the final audit report is released, records or drafts circulated to an individual who is not an employee or head of a governmental entity for the individual's response or information;
    - (iv) records that would disclose an outline or part of any audit survey plans or audit program; and
    - (v) requests for audits, if disclosure would risk circumvention of an audit.



- (b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure of records or information that relate to a violation of the law by a governmental entity or employee to a government prosecutor or peace officer.
- (c) The provisions of this Subsection (17) do not limit the authority otherwise given to the state auditor to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.
- (d)
  - (i) As used in this Subsection (17)(d), "record dispute" means a dispute between the state auditor and the subject of an audit performed by the state auditor as to whether the state auditor may release a record, as defined in Section 63G-2-103, to the public that the state auditor gained access to in the course of the state auditor's audit but which the subject of the audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.
  - (ii) The state auditor may submit a record dispute to the director of the Government Records Office, created in Section 63A-12-202, for a determination of whether the state auditor may, in conjunction with the state auditor's release of an audit report, release to the public the record that is the subject of the record dispute.
  - (iii) The state auditor or the subject of the audit may seek judicial review of the director's determination, described in Subsection (17)(d)(ii), as provided in Section 63G-2-404.
- (18) If the state auditor conducts an audit of an entity that the state auditor has previously audited and finds that the entity has not implemented a recommendation made by the state auditor in a previous audit, the state auditor shall notify the Legislative Management Committee through the Legislative Management Committee's audit subcommittee that the entity has not implemented that recommendation.
- (19) The state auditor shall, with the advice and consent of the Senate, appoint the state privacy auditor described in Section 67-3-13.
- (20) Except as provided in Subsection (21), the state auditor shall report, or ensure that another government entity reports, on the financial, operational, and performance metrics for the state system of higher education and the state system of public education, including metrics in relation to students, programs, and schools within those systems.
- (21)
  - (a) Notwithstanding Subsection (20), the state auditor shall conduct regular audits of:
    - (i) the scholarship granting organization for the Carson Smith Opportunity Scholarship Program, created in Section 53E-7-402;
    - (ii) the State Board of Education for the Carson Smith Scholarship Program, created in Section 53F-4-302; and
    - (iii) the scholarship program manager for the Utah Fits All Scholarship Program, created in Section 53F-6-402, including an analysis of the cost effectiveness of the program, taking into consideration the amount of the scholarship and the amount of state and local funds dedicated on a per-student basis within the traditional public education system.
  - (b) Nothing in this subsection limits or impairs the authority of the State Board of Education to administer the programs described in Subsection (21)(a).
- (22) The state auditor shall, based on the information posted by the Office of Legislative Research and General Counsel under Subsection 36-12-12.1(2), for each policy, track and post the following information on the state auditor's website:
  - (a) the information posted under Subsections 36-12-12.1(2)(a) through (e);
  - (b) an indication regarding whether the policy is timely adopted, adopted late, or not adopted;

- (c) an indication regarding whether the policy complies with the requirements established by law for the policy; and
  - (d) a link to the policy.
- (23)
- (a) A legislator may request that the state auditor conduct an inquiry to determine whether a government entity, government official, or government employee has complied with a legal obligation directly imposed, by statute, on the government entity, government official, or government employee.
  - (b) The state auditor may, upon receiving a request under Subsection (23)(a), conduct the inquiry requested.
  - (c) If the state auditor conducts the inquiry described in Subsection (23)(b), the state auditor shall post the results of the inquiry on the state auditor's website.
  - (d) The state auditor may limit the inquiry described in this Subsection (23) to a simple determination, without conducting an audit, regarding whether the obligation was fulfilled.
- (24) The state auditor shall:
- (a) ensure compliance with Title 63G, Chapter 31, Distinctions on the Basis of Sex, in accordance with Section 63G-31-401; and
  - (b) report to the Legislative Management Committee, upon request, regarding the state auditor's actions under this Subsection (24).
- (25) The state auditor shall report compliance with Sections 67-27-107, 67-27-108, and 67-27-109 by:
- (a) establishing a process to receive and audit each alleged violation; and
  - (b) reporting to the Legislative Management Committee, upon request, regarding the state auditor's findings and recommendations under this Subsection (25).
- (26) The state auditor shall ensure compliance with Section 63G-1-704 regarding the display of flags in or on government property.
- (27)
- (a) On or before January 31 each year, the state auditor shall prepare a report that states, for each entity that holds public funds as defined in Section 51-7-3, the entity's total balance, as of the last day of the immediately preceding fiscal year, of cash, cash equivalents, and investments, as those terms are defined under the standards established by the Governmental Accounting Standards Board.
  - (b) The state auditor shall make the report described in Subsection (27)(a) publicly available on a website that the state auditor maintains.

Amended by Chapter 274, 2025 General Session

Amended by Chapter 476, 2025 General Session

Amended by Chapter 508, 2025 General Session

### **67-3-1.5 Fees of state auditor.**

The state auditor shall receive the following fees:

For a copy of any paper filed or recorded in his office, 20 cents per folio.

For affixing certificate, with or without seal, \$1.

For filing any paper not otherwise provided for, \$1.

Renumbered and Amended by Chapter 46, 2001 General Session

**67-3-2 Right to compel accounting by, and state accounts with, all collectors of state money -- Escheats.**

Whenever any person has received money, or has money or other personal property which belongs to the state by escheat or otherwise, or has been entrusted with the collection, management or disbursement of any money, bonds, or interest accruing thereon, belonging to or held in trust by the state, and fails to render an account thereof to and make settlement with the state auditor within the time prescribed by law, or, when no particular time is specified, fails to render such account and make settlement, or who fails to pay into the state treasury any money belonging to the state, upon being required so to do by the state auditor, within 20 days after such requisition, the state auditor must state an account with such person, charging 25% damages, and interest at the rate of 10% per annum from the time of failure; a copy of such account in any suit thereon shall be prima facie evidence of the things therein stated. In case the state auditor cannot, for want of information, state such an account, the state auditor may in any action brought by the state auditor aver the fact, and allege generally the amount of money or other property which is due to or which belongs to the state.

Amended by Chapter 365, 2024 General Session

**67-3-3 Disbursements of public funds -- Suspension of disbursements -- Procedure upon suspension.**

- (1) The state auditor may suspend any disbursement of public funds whenever, in the state auditor's opinion, the disbursement is contrary to law.
- (2)
  - (a) If the validity of a disbursement described in Subsection (1) is not established within six months from the date of original suspension, the state auditor shall refer the matter to the attorney general for appropriate action.
  - (b) If, in the attorney general's opinion, the suspension described in Subsection (2)(a) was justified, the attorney general shall immediately notify the state auditor, who shall immediately make demand upon the surety of the disbursing or certifying officer.
  - (c) If the state auditor makes a demand under Subsection (2)(b), the surety shall immediately meet the demand and pay into the state treasury by certified check or legal tender any amount or amounts disbursed and involved in the suspension.
- (3)
  - (a) The state auditor shall ensure that each suspension is in writing.
  - (b) The state auditor shall:
    - (i) prepare a form to be known as the notice of suspension;
    - (ii) ensure that the form contains complete information as to:
      - (A) the payment suspended;
      - (B) the reason for the suspension;
      - (C) the amount of money involved; and
      - (D) any other information that will clearly establish identification of the payment;
    - (iii) retain the original of the suspension notice;
    - (iv) serve one copy of the suspension notice upon:
      - (A) the disbursing or certifying officer;
      - (B) any member of the finance commission; and
      - (C) the surety of the disbursing or certifying officer, except that mailing the copy to the surety company constitutes legal service;
    - (v) attach one copy of the suspension notice to the document under suspension; and

- (vi) take receipts entered upon the original suspension notice held by the state auditor from the disbursing or certifying officer, the finance commission, and the surety.
- (4)
  - (a) Immediately upon any suspension becoming final, the finance commission shall:
    - (i) cause an entry to be made debiting the disbursing or certifying officer with the amount of money involved in any suspension notice; and
    - (ii) credit the account originally charged by the payment.
  - (b) Upon release of final suspension by the state auditor, the finance commission shall make a reversing entry, crediting the disbursing or certifying officer, and like credit shall be given in all recoveries from the surety.
- (5)
  - (a) In accordance with this Subsection (5), the state auditor may prohibit the access of a state or local taxing or fee-assessing unit to money held by the state or in an account of a financial institution, if the state auditor determines that the local taxing or fee-assessing unit is not in compliance with state law regarding budgeting, expenditures, financial reporting of public funds, and transparency.
  - (b) The state auditor may not withhold funds under Subsection (5)(a) until the state auditor:
    - (i) sends formal notice of noncompliance to the state or local taxing or fee-assessing unit; and
    - (ii) allows the state or local taxing or fee-assessing unit 60 calendar days to:
      - (A) make the specified corrections; or
      - (B) demonstrate to the state auditor that the specified corrections are not legally required.
  - (c) If, after receiving notice under Subsection (5)(b), the state or local fee-assessing unit does not make the specified corrections and the state auditor does not agree with any demonstration under Subsection (5)(b)(ii)(B), the state auditor:
    - (i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to comply;
    - (ii) shall provide a recommended timeline for corrective actions;
    - (iii) may prohibit the taxing or fee-assessing unit from accessing money held by the state; and
    - (iv) may prohibit the taxing or fee-assessing unit from accessing money held in an account of a financial institution by:
      - (A) contacting the taxing or fee-assessing unit's financial institution and requesting that the institution prohibit access to the account; or
      - (B) filing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial institution from providing the taxing or fee-assessing unit access to an account.
  - (d) The state auditor shall remove the prohibition on accessing funds described in Subsections (5)(c)(iii) and (iv) if:
    - (i) the state or local taxing or fee-assessing unit makes the specified corrections described in Subsection (5)(b); or
    - (ii) the state auditor agrees with a demonstration under Subsection (5)(b)(ii)(B).

Amended by Chapter 158, 2024 General Session

#### **67-3-4 Appropriations not to be diverted from purposes.**

No appropriation and no surplus of any appropriation shall be diverted from any account to any other account, except as provided by law, and the money appropriated, or so much as may be necessary, shall be applied to the payment of the item for which the appropriation is made and nothing else.

No Change Since 1953

**67-3-5 Right of visitation and examination.**

For the purpose of carrying out the duties of the state auditor, the state auditor shall have access to all offices of public entities during business hours for the inspection of their records, regardless of any general limitation on access to records provided in an entity's individual statute.

Amended by Chapter 78, 2003 General Session

**67-3-6 Seal.**

The state auditor shall adopt a seal and shall file a description and an impression thereof with the Division of Archives.

Amended by Chapter 67, 1984 General Session

**67-3-8 Preparation and distribution of budget forms.**

The state auditor shall formulate and print budget forms for all cities, all counties, and all school districts. These budget forms shall be distributed at cost to each city, county, and school district.

Amended by Chapter 292, 2003 General Session

**67-3-10 Background checks for employees.**

- (1) As used in this section, "bureau" means the Bureau of Criminal Identification created in Section 53-10-201.
- (2) Beginning July 1, 2018, the state auditor shall require employees involved in an audit, investigation, or review requiring access to information and records, the access to which requires a background check by federal statute or regulation, to submit to a fingerprint-based local, regional, and national criminal history background check and ongoing monitoring as a condition of employment.
- (3) Each individual in a position listed in Subsection (2) shall provide a completed fingerprint card to the state auditor upon request.
- (4) The state auditor shall require that an individual required to submit to a background check under Subsection (3) provide a signed waiver on a form provided by the state auditor that meets the requirements of Subsection 53-10-108(4).
- (5) For a noncriminal justice background search and registration in accordance with Subsection 53-10-108(13), the state auditor shall submit to the bureau:
  - (a) the applicant's personal identifying information and fingerprints for a criminal history search of applicable local, regional, and national databases; and
  - (b) a request for all information received as a result of the local, regional, and nationwide background check.
- (6) The state auditor is responsible for the payment of all fees required by Subsection 53-10-108(15) and any fees required to be submitted to the Federal Bureau of Investigation by the bureau.
- (7) The state auditor may set office policy that:
  - (a) determines how the state auditor will assess the employment status of an individual upon receipt of background information; and
  - (b) identifies the appropriate privacy risk mitigation strategy to be used in accordance with Subsection 53-10-108(13)(b).

Enacted by Chapter 427, 2018 General Session

**67-3-12 Utah Public Finance Website -- Establishment and administration -- Records disclosure -- Exceptions.**

(1) As used in this section:

(a)

- (i) Subject to Subsections (1)(a)(ii) and (iii), "independent entity" means the same as that term is defined in Section 63E-1-102.
- (ii) "Independent entity" includes an entity that is part of an independent entity described in Subsection (1)(a)(i), if the entity is considered a component unit of the independent entity under the governmental accounting standards issued by the Governmental Accounting Standards Board.
- (iii) "Independent entity" does not include the Utah State Retirement Office created in Section 49-11-201.

(b) "Local education agency" means a school district or charter school.

(c) "Participating local entity" means:

- (i) a county;
- (ii) a municipality;
- (iii) the State Fair Park Authority, created in Section 11-68-201;
- (iv) a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts;
- (v) a special service district under Title 17D, Chapter 1, Special Service District Act;
- (vi) a housing authority under Title 35A, Chapter 8, Part 4, Housing Authorities;
- (vii) a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act;
- (viii) except for a taxed interlocal entity as defined in Section 11-13-602:
  - (A) an interlocal entity as defined in Section 11-13-103;
  - (B) a joint or cooperative undertaking as defined in Section 11-13-103; or
  - (C) any project, program, or undertaking entered into by interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;
- (ix) except for a taxed interlocal entity as defined in Section 11-13-602, an entity that is part of an entity described in Subsections (1)(c)(i) through (viii), if the entity is considered a component unit of the entity described in Subsections (1)(c)(i) through (viii) under the governmental accounting standards issued by the Governmental Accounting Standards Board;
- (x) a conservation district under Title 17D, Chapter 3, Conservation District Act; or
- (xi) a governmental nonprofit corporation under Title 11, Chapter 13a, Governmental Nonprofit Corporations Act.

(d)

- (i) "Participating state entity" means the state of Utah, including its executive, legislative, and judicial branches, its departments, divisions, agencies, boards, commissions, councils, committees, and institutions.
- (ii) "Participating state entity" includes an entity that is part of an entity described in Subsection (1)(d)(i), if the entity is considered a component unit of the entity described in Subsection (1)(d)(i) under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(e) "Public finance website" or "website" means the website established by the state auditor in accordance with this section.

- (f) "Public financial information" means each record that is required under this section or by rule made by the Office of the State Auditor under Subsection (9) to be made available on the public finance website, a participating local entity's website, or an independent entity's website.
- (g) "Qualifying entity" means:
  - (i) an independent entity;
  - (ii) a participating local entity;
  - (iii) a participating state entity;
  - (iv) a local education agency;
  - (v) a state institution of higher education as defined in Section 53B-3-102;
  - (vi) the Utah Educational Savings Plan created in Section 53B-8a-103;
  - (vii) the Utah Housing Corporation created in Section 63H-8-201;
  - (viii) the School and Institutional Trust Lands Administration created in Section 53C-1-201;
  - (ix) the Utah Capital Investment Corporation created in Section 63N-6-301; or
  - (x) a URS-participating employer.
- (h)
  - (i) "URS-participating employer" means an entity that:
    - (A) is a participating employer, as that term is defined in Section 49-11-102; and
    - (B) is not required to report public financial information under this section as a qualifying entity described in Subsections (1)(g)(i) through (ix).
  - (ii) "URS-participating employer" does not include:
    - (A) the Utah State Retirement Office created in Section 49-11-201;
    - (B) an insurer that is subject to the disclosure requirements of Section 31A-4-113;
    - (C) a private nonprofit organization that is not a public employees' association; or
    - (D) a withdrawing entity.
- (i)
  - (i) "Withdrawing entity" means:
    - (A) an entity that elects to withdraw from participation in a system or plan under Title 49, Chapter 11, Part 6, Procedures and Records;
    - (B) until the date determined under Subsection 49-11-626(2)(a), a public employees' association that provides the notice of intent described in Subsection 49-11-626(2)(b); and
    - (C) beginning on the date determined under Subsection 49-11-626(2)(a), a public employees' association that makes an election described in Subsection 49-11-626(3).
  - (ii) "Withdrawing entity" includes a withdrawing entity, as that term is defined in Sections 49-11-623 and 49-11-624.
- (2) The state auditor shall establish and maintain a public finance website in accordance with this section.
- (3) The website shall:
  - (a) permit Utah taxpayers to:
    - (i) view, understand, and track the use of taxpayer dollars by making public financial information available on the Internet for participating state entities, independent entities, participating local entities, and URS-participating employers, using the website; and
    - (ii) link to websites administered by participating local entities, independent entities, or URS-participating employers that do not use the website for the purpose of providing public financial information as required by this section and by rule made under Subsection (9);
  - (b) allow a person that has Internet access to use the website without paying a fee;
  - (c) allow the public to search public financial information on the website;

- (d) provide access to financial reports, financial audits, budgets, or other financial documents that are used to allocate, appropriate, spend, and account for government funds, as may be established by rule made in accordance with Subsection (9);
  - (e) have a unique and simplified website address;
  - (f) be guided by the principles described in Subsection 63A-16-202(2);
  - (g) include other links, features, or functionality that will assist the public in obtaining and reviewing public financial information, as may be established by rule made under Subsection (9); and
  - (h) include a link to school report cards published on the State Board of Education's website under Section 53E-5-211.
- (4) The state auditor shall:
- (a) establish and maintain the website, including the provision of equipment, resources, and personnel as necessary;
  - (b) maintain an archive of all information posted to the website;
  - (c) coordinate and process the receipt and posting of public financial information from participating state entities; and
  - (d) coordinate and regulate the posting of public financial information by participating local entities and independent entities.
- (5) A qualifying entity shall permit the public to view the qualifying entity's public financial information by posting the public financial information to the public finance website in accordance with rules made under Subsection (9).
- (6) The content of the public financial information posted to the public finance website is the responsibility of the qualifying entity posting the public financial information.
- (7) A URS-participating employer shall provide employee compensation information for each fiscal year ending on or after June 30, 2022:
- (a) to the state auditor for posting on the Utah Public Finance Website; or
  - (b)
    - (i) through the URS-participating employer's own website; and
    - (ii) via a link to the website described in Subsection (7)(b)(i), submitted to the state auditor for posting on the Utah Public Finance Website.
- (8)
- (a) A qualifying entity may not post financial information that is classified as private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act, to the public finance website.
  - (b) An individual who negligently discloses financial information that is classified as private, protected, or controlled by Title 63G, Chapter 2, Government Records Access and Management Act, is not criminally or civilly liable for an improper disclosure of the financial information if the financial information is disclosed solely as a result of the preparation or publication of the website.
- (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Office of the State Auditor:
- (a) shall make rules to:
    - (i) establish which records a qualifying entity is required to post to the public finance website; and
    - (ii) establish procedures for obtaining, submitting, reporting, storing, and posting public financial information on the public finance website; and
  - (b) may make rules:



- (i) governing when a qualifying entity is required to disclose an expenditure made by a person under contract with the qualifying entity, including the form and content of the disclosure; and
  - (ii) allowing for the inclusion of financial data provided by a participating local entity to be included on the Utah Public Finance Website in a uniform manner.
- (10) The rules made under Subsection (9) shall only require a URS-participating employer to provide employee compensation information for each fiscal year ending on or after June 30, 2022:
  - (a) to the state auditor for posting on the public finance website; or
  - (b)
    - (i) through the URS-participating employer's own website; and
    - (ii) via a link to the website described in Subsection (10)(b)(i), submitted to the state auditor for posting on the public finance website.

Amended by Chapter 270, 2025 General Session

**67-3-13 State privacy auditor.**

- (1) As used in this section:
  - (a) "Governmental entity" means the same as that term is defined in Section 63G-2-103.
  - (b) "Personal data" means the same as that term is defined in Section 63A-19-101.
  - (c) "Privacy practice" means the same as that term is defined in Section 63A-19-101.
  - (d) "State agency" means the same as that term is defined in Section 63A-19-101.
  - (e) "State privacy auditor" means the individual appointed as state privacy auditor by the state auditor under Section 67-3-1.
- (2) The state privacy auditor shall:
  - (a) compile information about the privacy practices of governmental entities;
  - (b) make public and maintain information about the privacy practices of governmental entities on the state auditor's website;
  - (c) provide governmental entities with guidance and training regarding the data privacy auditing standards developed by the state privacy auditor;
  - (d) implement a process to analyze and respond to requests from individuals for the state privacy auditor to audit a governmental entity's privacy practice;
  - (e) identify annually which governmental entities' privacy practices pose the greatest risk to individual privacy and prioritize those privacy practices to be audited;
  - (f) audit each year, in as timely a manner as possible, the privacy practices that the state privacy auditor identifies under Subsection (2)(d) or (2)(e) as posing the greatest risk to individuals' privacy;
  - (g) when auditing a governmental entity's privacy practice under Subsection (2)(f), analyze:
    - (i) details about the technology or the policy and the technology's or the policy's application;
    - (ii) information about the type of personal data being used;
    - (iii) information about how the personal data is obtained, stored, shared, secured, and disposed;
    - (iv) information about the governmental entity's sharing or selling of personal data;
    - (v) information about whether an individual can or should be able to opt out of the retention, selling, and sharing of the individual's personal data;
    - (vi) information about how the governmental entity de-identifies or anonymizes personal data;
    - (vii) a determination about the existence of alternative technology or improved practices to protect privacy; and

- (viii) a finding of whether the governmental entity's current privacy practices adequately protect individual privacy; and
  - (h) after completing an audit described in Subsections (2)(f) and (g), determine:
    - (i) each governmental entity's use of personal data, including the governmental entity's privacy practices regarding personal data:
      - (A) acquisition;
      - (B) storage;
      - (C) disposal;
      - (D) protection; and
      - (E) sharing;
    - (ii) the adequacy of the governmental entity's practices in each of the areas described in Subsection (2)(h)(i); and
    - (iii) for each of the areas described in Subsection (2)(h)(i) that the state privacy auditor determines to require reform, provide recommendations for reform to the governmental entity and the legislative body charged with regulating the governmental entity.
- (3)
- (a) The legislative body charged with regulating a governmental entity that receives a recommendation described in Subsection (2)(h)(iii) shall hold a public hearing on the proposed reforms:
    - (i) with a quorum of the legislative body present; and
    - (ii) within 90 days after the day on which the legislative body receives the recommendation.
  - (b)
    - (i) The legislative body shall provide notice of the hearing described in Subsection (3)(a).
    - (ii) Notice of the public hearing and the recommendations to be discussed shall be posted for the jurisdiction of the governmental entity, as a class A notice under Section 63G-30-102, for at least 30 days before the day on which the legislative body will hold the public hearing.
    - (iii) Each notice required under Subsection (3)(b)(i) shall:
      - (A) identify the recommendations to be discussed; and
      - (B) state the date, time, and location of the public hearing.
  - (c) During the hearing described in Subsection (3)(a), the legislative body shall:
    - (i) provide the public the opportunity to ask questions and obtain further information about the recommendations; and
    - (ii) provide any interested person an opportunity to address the legislative body with concerns about the recommendations.
  - (d) At the conclusion of the hearing, the legislative body shall determine whether the legislative body shall adopt reforms to address the recommendations and any concerns raised during the public hearing.
- (4) Subsection (3) does not apply to:
- (a) a state agency;
  - (b) the legislative branch;
  - (c) the judicial branch;
  - (d) an executive branch agency within the Office of the Attorney General, the state auditor, the state treasurer, or the State Board of Education; or
  - (e) an independent entity.
- (5) The state privacy auditor shall:
- (a) quarterly report, to the Utah Privacy Commission:
    - (i) recommendations for privacy practices for the commission to review; and
    - (ii) the information provided in Subsection (2)(h); and

- (b) annually, on or before October 1, report to the Judiciary Interim Committee:
  - (i) the results of any audits described in Subsection (2)(f), if any audits have been completed;
  - (ii) reforms, to the extent that the state privacy auditor is aware of any reforms, that the governmental entity made in response to any audits described in Subsection (2)(f);
  - (iii) the information described in Subsection (2)(h); and
  - (iv) recommendations for legislation based on any results of an audit described in Subsection (2)(f).

Amended by Chapter 475, 2025 General Session

## **Chapter 4**

### **Treasurer**

#### **67-4-1 Duties.**

- (1) The state treasurer shall:
  - (a) receive and maintain custody of all state funds;
  - (b) unless otherwise provided by law, invest all funds delivered into the state treasurer's custody according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act;
  - (c) pay warrants drawn by the Division of Finance as they are presented;
  - (d) return each redeemed warrant to the Division of Finance for purposes of reconciliation, post-audit, and verification;
  - (e) ensure that state warrants not presented to the state treasurer for payment within one year from the date of issue, or a shorter period if required by federal regulation or contract, are canceled and credited to the proper fund;
  - (f) account for all money received and disbursed;
  - (g) keep separate account of the different funds;
  - (h) keep safe all bonds, warrants, and securities delivered into his custody;
  - (i) at the request of either house of the Legislature, or of any legislative committee, give information in writing as to the condition of the treasury, or upon any subject relating to the duties of his office;
  - (j) keep the books open at all times for the inspection by the governor, the state auditor, or any member of the Legislature, or any committee appointed to examine them by either house of the Legislature;
  - (k) authenticate and validate documents when necessary;
  - (l) adopt a seal and file a description and an impression of it with the Division of Archives;
  - (m) discharge the duties of a member of all official boards of which he is or may be made a member by the Constitution or laws of Utah; and
  - (n) oversee and support the advocacy of the Land Trusts Protection and Advocacy Office, created in Title 53D, Chapter 2, Land Trusts Protection and Advocacy Office.
- (2) The state treasurer may prescribe the manner and method of receipt, deposit, or custody for any funds to be paid to, remitted to, or deposited with the state treasurer by:
  - (a) letter; or
  - (b) rule that the office of the state treasurer makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

- (3) When necessary to perform his duties, the state treasurer may inspect the books, papers, and accounts of any state entity.
- (4) The state treasurer may take temporary custody of public funds if ordered by a court to do so under Subsection 67-3-1(12).

Amended by Chapter 434, 2019 General Session

**67-4-2 Definitions.**

As used in this chapter:

- (1) "Federal funds" means cash received from the United States government or from other individuals or entities for or on behalf of the United States and deposited with the state treasurer or any agency of the state.
- (2) "General Fund" means money received into the treasury and not specially appropriated to any other fund.
- (3) "Maintain custody" means to direct the safekeeping and investment of state funds.
- (4)
  - (a) "State entity" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.
  - (b) "State entity" includes independent state agencies and public corporations.
- (5)
  - (a) "State funds" means funds that are owned, held, or administered by a state entity, regardless of the source of the funds.
  - (b) "State funds" includes funds of independent state agencies or public corporations, regardless of the source of funds.
  - (c) "State funds" does not include funds held by the Utah State Retirement Board.
- (6) "Warrant" means an order in a specific amount drawn upon the treasurer by the Division of Finance or another state agency.

Amended by Chapter 363, 2017 General Session

**67-4-3 Warrants upon state treasurer -- Legislative policy.**

It is the legislative purpose in the enactment of this measure to make uniform the laws of the state of Utah with respect to the preparation, issuance and drawing of warrants upon the state treasurer.

No Change Since 1953

**67-4-10 Crime insurance.**

- (1) The state treasurer, within 30 days after taking office, shall obtain crime insurance in a sum to be determined by the State Money Management Council.
- (2) The state shall pay the premium of the crime insurance.

Amended by Chapter 76, 2025 General Session

**67-4-11 Delict of treasurer -- Duties of auditor and governor -- Suspension.**

- (1) The state auditor shall notify the governor if the state auditor examines the books of the state treasurer, and finds that:

- (a) the books do not correspond with the amount of funds on hand;
  - (b) the books do not show the actual condition of the funds;
  - (c) money belonging to the state has been embezzled, diverted, or in any manner taken from the treasury without authority of law; or
  - (d) the state treasurer has been guilty of negligence in keeping the books or in taking care of the public money.
- (2) Upon receipt of the notice, the governor shall:
- (a) take possession of all books, money, papers, and other property belonging to the state in the possession of the state treasurer; and
  - (b) temporarily suspend the state treasurer from office.
- (3)
- (a) The state auditor shall:
    - (i) examine the books, papers, and all matters connected with the office of the suspended state treasurer; and
    - (ii) notify the governor of the findings.
  - (b) If, based upon the examination, the auditor concludes that the state treasurer has embezzled or converted to personal use the public money, or has been negligent in keeping the books, or in taking care of the public money, the governor shall appoint another person to replace the suspended state treasurer.
  - (c) The new state treasurer shall obtain crime insurance, and enter upon the office of state treasurer, as provided by law.
  - (d) The governor shall report all of the acts done under this section to the Legislature.
- (4) The new state treasurer shall hold office until the suspended state treasurer is restored or until a successor is elected and qualified.

Amended by Chapter 76, 2025 General Session

**67-4-15 Insurance protection for funds, warrants and securities.**

The state treasurer shall procure such insurance protecting the funds, warrants and securities in the state treasurer's custody against loss from such causes and in such amounts as the Commission of Finance may from time to time determine. The cost of such insurance shall be paid out of the fund for the protection of which it is carried.

Amended by Chapter 365, 2024 General Session

**67-4-16 State financial advisor -- Duties -- Conflict of interest restrictions.**

- (1) The state treasurer may hire a state financial advisor on a fee-for-service basis.
- (2) The state financial advisor shall advise the state treasurer, the executive director of the Governor's Office of Planning and Budget, the director of the Division of Finance, the director of the Division of Facilities Construction and Management, and the Legislature and its staff offices on the issuance of bonds and other debt, and on all other public debt matters generally.
- (3) The financial advisor may assist in the preparation of the official statement, represent the state's creditworthiness before credit rating agencies, and assist in the preparation, marketing, or issuance of public debt.
- (4)
  - (a) The state financial advisor or the firm that the advisor represents may not negotiate to underwrite debt issued by the state of Utah for which he has provided financial advisor services.

- (b) The state financial advisor may enter a competitive bid, either for his own account or in cooperation with others, in response to a call for public bids for the sale of state debt.
- (5)
- (a) Fees directly related to the preparation, marketing, or issuance of public debt, including ordinary and necessary expenses, may be paid from the debt proceeds.
  - (b) Fees for other services shall be paid from the state treasurer's budget.

Amended by Chapter 382, 2021 General Session

**67-4-17 Federal/state cash transfers.**

- (1)
- (a) The state treasurer and the Division of Finance shall enter into an agreement with the United States Secretary of the Treasury that establishes procedures and requirements for implementing the United States Cash Management Improvement Act of 1990.
  - (b) The agreement shall stipulate that:
    - (i) the time elapsed between the transfer of funds from the United States Treasury and the redemption of warrants shall be minimized; and
    - (ii) if the state:
      - (A) deposits federal funds before the time funds are paid out of the state treasury for the redemption of warrants issued for federal programs, the Division of Finance may pay to the United States Treasury, out of interest earnings on the funds, an interest amount as required by federal regulation; or
      - (B) disburses its own funds for federal programs, the Division of Finance shall bill the federal government for interest from the time state funds are paid out to redeem warrants until the federal funds are received.
- (2) To the degree allowed by federal regulation, all direct costs of calculating the interest may be:
- (a) deducted from any interest payments made to the United States Treasury; or
  - (b) included in any billings to the United States Treasury.

Enacted by Chapter 195, 1991 General Session

**67-4-19 Investments of public funds in precious metals by state treasurer -- Precious metals study and report to Legislature.**

- (1) As used in this section, "precious metal" means the same as that term is defined in Section 61-1-13.
- (2)
- (a) Subject to Subsection (2)(b), the state treasurer may invest a portion of public funds in the following accounts in precious metals:
    - (i) the State Disaster Recovery Restricted Account, created in Section 53-2a-603;
    - (ii) the General Fund Budget Reserve Account, created in Section 63J-1-312;
    - (iii) the Income Tax Fund Budget Reserve Account, created in Section 63J-1-313; and
    - (iv) the Medicaid Growth Reduction and Budget Stabilization Account, created in Section 63J-1-315.
  - (b)
    - (i) The amount of public funds that the state treasurer may invest in precious metals in an account described in Subsection (2)(a) may not, at the time the investment is made, exceed 10% of the total amount of public funds in that account.

- (ii) The requirements of Subsections 51-7-14(2) and (3) apply to the state treasurer's investments in precious metals under Subsection (2)(a).
- (iii) Any public funds in an account described in Subsection (2)(a) not invested by the state treasurer in precious metals under this Subsection (2) shall be invested as provided in Title 51, Chapter 7, State Money Management Act.
- (3) The state treasurer may deduct any administrative costs incurred by investing in precious metals under Subsection (2)(a), including delivery and vaulting costs, from earnings generated by the investments in the funds described in Subsections (2)(a)(i) through (iv).

Amended by Chapter 186, 2025 General Session

**67-4-21 Asset and Investment Review Task Force.**

- (1) As used in this section, "task force" means the Asset and Investment Review Task Force created in this section.
- (2) There is created the Asset and Investment Review Task Force consisting of:
  - (a) one member of the Senate, appointed by the president of the Senate;
  - (b) one member of the House of Representatives, appointed by the speaker of the House of Representatives;
  - (c) the state auditor or the state auditor's designee;
  - (d) the state treasurer or the state treasurer's designee;
  - (e) the commissioner of the Department of Financial Institutions or the commissioner's designee; and
  - (f) the following members, appointed by the state treasurer:
    - (i) an individual representing the banking industry;
    - (ii) an individual representing the credit union industry;
    - (iii) an individual representing a nonprofit organization that advocates on state tax policy;
    - (iv) an individual representing municipalities;
    - (v) an individual representing counties; and
    - (vi) an individual representing special districts.
- (3) The state treasurer or the state treasurer's designee shall chair the task force.
- (4) If a vacancy occurs in the membership of the task force described in Subsection (2), the member shall be replaced in the same manner in which the original appointment was made.
- (5)
  - (a) A majority of the members of the task force constitutes a quorum.
  - (b) The action of a majority of a quorum constitutes an action of the task force.
- (6) Salaries and expenses of the members of the task force who are legislators shall be paid in accordance with:
  - (a) Section 36-2-2;
  - (b) Legislative Joint Rules, Title 5, Chapter 2, Lodging, Meal, and Transportation Expenses; and
  - (c) Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.
- (7) A member of the task force who is not a legislator:
  - (a) may not receive compensation for the member's work associated with the task force; and
  - (b) may receive per diem and reimbursement for travel expenses incurred as a member of the task force at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
- (8) The state treasurer's office shall provide staff support to the task force.
- (9)
  - (a) The task force shall complete a study that:

- (i) identifies public funds that are:
    - (A) held by a government entity;
    - (B) cash, cash equivalents, or investments, as those terms are defined under the standards established by the Governmental Accounting Standards Board; and
    - (C) subject to the provisions of Title 51, Chapter 7, State Money Management Act;
  - (ii) examines investment strategies for public funds described in Subsection (9)(a)(i), including an analysis of the economic impact of each strategy; and
  - (iii) makes recommendations regarding public funds described in Subsection (9)(a)(i) and possible investment strategies for the public funds.
- (b)
- (i) Subject to Subsection (9)(b)(ii), the task force may limit the government entities included in the study described in Subsection (9)(a) based on the amount of cash and cash equivalents held by the government entity.
  - (ii) The task force shall include, at minimum, all government entities holding a total of \$1 million or more in cash and cash equivalents.
- (10) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state treasurer may contract with a qualified person to perform the study described in Subsection (9).
- (11) On or before November 30, 2025, the task force shall submit to the Executive Appropriations Committee the results of the study described in Subsection (9) and any legislative recommendations.

Enacted by Chapter 361, 2025 General Session

**67-4-22 State Treasurer Investment Management Account.**

- (1) As used in this section, "account" means the State Treasurer Investment Management Account created in this section.
- (2) There is created within the General Fund a restricted account known as the State Treasurer Investment Management Account.
- (3) Money in the account is solely to pay for the state treasurer's costs of managing the state's and local governments' investments.
- (4)
  - (a) Subject to Subsection (4)(b), the account shall consist of a portion of investment earnings on:
    - (i) the funds listed in Subsection 51-7-2(1) and managed by the state treasurer; and
    - (ii) the Public Treasurers' Investment Fund created in Section 51-7-3.
  - (b) The total annual amount deposited into the account for a given fiscal year may not exceed the amount appropriated from the account for that fiscal year.
- (5) The state treasurer shall deposit investment earnings into the account quarterly, based on the annually appropriated amount described in Subsection (4)(b).
- (6) Appropriations from the account reduce General Fund revenue and Income Tax Fund revenue proportional to those funds' share of total investments.
- (7) Beginning in 2026, after July 1 and before December 1 each calendar year, the state treasurer shall report to the Executive Appropriations Committee the portion of the deposits into the account during the previous fiscal year that was General Fund revenue and the portion that was Income Tax Fund revenue.
- (8) The Division of Finance shall lapse any balances in the account at the close of a fiscal year to the General Fund and Income Tax Fund proportional to those funds' share of total deposits.

Enacted by Chapter 167, 2025 General Session



## **Chapter 4a** **Revised Uniform Unclaimed Property Act**

### **Part 1** **General Provisions**

#### **67-4a-101 Title.**

This chapter is known as the "Revised Uniform Unclaimed Property Act."

Repealed and Re-enacted by Chapter 371, 2017 General Session

#### **67-4a-102 Definitions.**

As used in this chapter:

- (1) "Administrator" means the deputy state treasurer assigned by the state treasurer.
- (2)
  - (a) "Administrator's agent" means a person with which the administrator contracts to conduct an examination under Part 10, Verified Report of Property and Examination of Records, on behalf of the administrator.
  - (b) "Administrator's agent" includes an independent contractor of the person and each individual participating in the examination on behalf of the person or contractor.
- (3) "Apparent owner" means a person whose name appears on the records of a holder as the owner of property held, issued, or owing by the holder.
- (4)
  - (a) "Bank draft" means a check, draft, or similar instrument on which a banking or financial organization is directly liable.
  - (b) "Bank draft" includes:
    - (i) a cashier's check; and
    - (ii) a certified check.
  - (c) "Bank draft" does not include:
    - (i) a traveler's check; or
    - (ii) a money order.
- (5) "Banking organization" means:
  - (a) a bank;
  - (b) an industrial bank;
  - (c) a trust company;
  - (d) a savings bank; or
  - (e) any organization defined by other law as a bank or banking organization.
- (6) "Business association" means a corporation, joint stock company, investment company other than an investment company registered under the Investment Company Act of 1940, partnership, unincorporated association, joint venture, limited liability company, business trust, trust company, land bank, safe deposit company, safekeeping depository, financial organization, banking organization, insurance company, federally chartered entity, utility, sole proprietorship, or other business entity, whether or not for profit.
- (7) "Cashier's check" means a check that:
  - (a) is drawn by a banking organization on itself;

- (b) is signed by an officer of the banking organization; and
- (c) authorizes payment of the amount shown on the check's face to the payee.
- (8) "Class action" means a legal action:
  - (a) certified by the court as a class action; or
  - (b) treated by the court as a class action without being formally certified as a class action.
- (9) "Confidential information" means records, reports, and information that is confidential under Section 67-4a-1402.
- (10)
  - (a) "Deposit in a financial institution" means a demand, savings, or matured time deposit with a banking or financial organization.
  - (b) "Deposit in a financial institution" includes:
    - (i) any interest or dividends on a deposit; and
    - (ii) a deposit that is automatically renewable.
- (11) "Domicile" means:
  - (a) for a corporation, the state of the corporation's incorporation;
  - (b) for a business association other than a corporation, whose formation requires a filing with a state, the state of the business association's filing;
  - (c) for a federally chartered entity or an investment company registered under the Investment Company Act of 1940, the state of the entity's or company's home office; and
  - (d) for any other holder, the state of the holder's principal place of business.
- (12) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- (13) "Electronic mail" means a communication by electronic means that is automatically retained and stored and may be readily accessed or retrieved.
- (14) "Financial organization" means:
  - (a) a savings and loan association; or
  - (b) a credit union.
- (15)
  - (a) "Game-related digital content" means digital content that exists only in an electronic game or electronic-game platform.
  - (b) "Game-related digital content" includes:
    - (i) game-play currency, including a virtual wallet, even if denominated in United States currency; and
    - (ii) the following, if for use or redemption only within the game or platform or another electronic game or electronic-game platform:
      - (A) points sometimes referred to as gems, tokens, gold, and similar names; and
      - (B) digital codes.
  - (c) "Game-related digital content" does not include an item that the issuer:
    - (i) permits to be redeemed for use outside a game or platform for:
      - (A) money; or
      - (B) goods or services that have more than minimal value; or
    - (ii) otherwise monetizes for use outside a game or platform.
- (16)
  - (a) "Gift card" means a record that:
    - (i) is usable at:
      - (A) a single merchant; or
      - (B) a specified group of merchants;
    - (ii) is prefunded before the record is used; and

- (iii) can be used for purchases of goods or services.
- (b) "Gift card" includes a prepaid commercial mobile radio service as defined in 47 C.F.R. Sec. 20.3.
- (17) "Holder" means a person obligated to hold for the account of, or to deliver or pay to, the owner property subject to this chapter.
- (18) "Insurance company" means an association, corporation, or fraternal or mutual benefit organization, whether or not for profit, engaged in the business of providing life endowments, annuities, or insurance, including:
  - (a) accident insurance;
  - (b) burial insurance;
  - (c) casualty insurance;
  - (d) credit life insurance;
  - (e) contract performance insurance;
  - (f) dental insurance;
  - (g) disability insurance;
  - (h) fidelity insurance;
  - (i) fire insurance;
  - (j) health insurance;
  - (k) hospitalization insurance;
  - (l) illness insurance;
  - (m) life insurance, including endowments and annuities;
  - (n) malpractice insurance;
  - (o) marine insurance;
  - (p) mortgage insurance;
  - (q) surety insurance;
  - (r) wage protection insurance; and
  - (s) worker compensation insurance.
- (19) "Last known address" means a description of the location of the apparent owner sufficient for the purpose of the delivery of mail.
- (20)
  - (a) "Loyalty card" means a record given without direct monetary consideration under an award, reward, benefit, loyalty, incentive, rebate, or promotional program that may be used or redeemed only to obtain goods or services or a discount on goods or services.
  - (b) "Loyalty card" does not include a record that may be redeemed for money or otherwise monetized by the issuer.
- (21)
  - (a) "Mineral" means any substance that is ordinarily and naturally considered a mineral, regardless of the depth at which the substance is found.
  - (b) "Mineral" includes:
    - (i) building stone;
    - (ii) cement material;
    - (iii) chemical raw material;
    - (iv) coal;
    - (v) colloidal and other clay;
    - (vi) fissionable and nonfissionable ore;
    - (vii) gas;
    - (viii) gemstone;
    - (ix) gravel;

- (x) lignite;
- (xi) oil;
- (xii) oil shale;
- (xiii) other gaseous liquid or solid hydrocarbon;
- (xiv) road material;
- (xv) sand;
- (xvi) steam and other geothermal resources;
- (xvii) sulphur; and
- (xviii) uranium.

(22)

- (a) "Mineral proceeds" means an amount payable:
  - (i) for extraction, production, or sale of minerals; or
  - (ii) for the abandonment of an interest in minerals.
- (b) "Mineral proceeds" includes an amount payable:
  - (i) for the acquisition and retention of a mineral lease, including a bonus, royalty, compensatory royalty, shut-in royalty, minimum royalty, or delay rental;
  - (ii) for the extraction, production, or sale of minerals, including a net revenue interest, royalty, overriding royalty, extraction payment, or production payment; and
  - (iii) under an agreement or option, including a joint-operating agreement, unit agreement, pooling agreement, and farm-out agreement.

(23)

- (a) "Money order" means a payment order for a specified amount of money.
  - (b) "Money order" includes an express money order and a personal money order on which the remitter is the purchaser.
  - (c) "Money order" does not include a cashier's check.
- (24) "Municipal bond" means a bond or evidence of indebtedness issued by a municipality or other political subdivision of a state.

(25)

- (a) "Nonfreely transferable security" means a security that cannot be delivered to the administrator by the Depository Trust Clearing Corporation or a similar custodian of securities providing post-trade clearing and settlement services to financial markets or cannot be delivered because there is no agent to effect transfer.
- (b) "Nonfreely transferable security" includes a worthless security.

(26)

- (a) "Owner" means a person that has a legal, beneficial, or equitable interest in property subject to this chapter or the person's legal representative when acting on behalf of the owner.
- (b) "Owner" includes:
  - (i) a depositor, for a deposit;
  - (ii) a beneficiary, for a trust other than a deposit in trust;
  - (iii) a creditor, claimant, or payee, for other property; and
  - (iv) the lawful bearer of a record that may be used to obtain money, a reward, or a thing of value.

(27) "Payroll card" means a record that evidences a payroll card account as defined in 12 C.F.R. Part 1005, Electronic Fund Transfers (Regulation E).

(28) "Person" means:

- (a) an individual;
- (b) an estate;
- (c) a business association;

- (d) a public corporation;
  - (e) a government entity;
  - (f) an agency;
  - (g) a trust;
  - (h) an instrumentality; or
  - (i) any other legal or commercial entity.
- (29)
- (a) "Property" means tangible property described in Section 67-4a-205 or a fixed and certain interest in intangible property held, issued, or owed in the course of a holder's business or by a government entity.
  - (b) "Property" includes:
    - (i) all income from or increments to the property;
    - (ii) property referred to as or evidenced by:
      - (A) money, virtual currency, interest, or a dividend, check, draft, or deposit;
      - (B) a credit balance, customer's overpayment, stored-value card, payroll card, security deposit, refund, credit memorandum, unpaid wage, unused ticket for which the issuer has an obligation to provide a refund, mineral proceeds, or unidentified remittance; and
      - (C) a security except for:
        - (I) a worthless security; or
        - (II) a security that is subject to a lien, legal hold, or restriction evidenced on the records of the holder or imposed by operation of law, if the lien, legal hold, or restriction restricts the holder's or owner's ability to receive, transfer, sell, or otherwise negotiate the security;
    - (iii) a bond, debenture, note, or other evidence of indebtedness;
    - (iv) money deposited to redeem a security, make a distribution, or pay a dividend;
    - (v) an amount due and payable under an annuity contract or insurance policy;
    - (vi) an amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit-sharing, employee-savings, supplemental-unemployment insurance, or a similar benefit; and
    - (vii) an amount held under a preneed funeral or burial contract, other than a contract for burial rights or opening and closing services, where the contract has not been serviced following the death or the presumed death of the beneficiary.
  - (c) "Property" does not include:
    - (i) property held in a plan described in Section 529A, Internal Revenue Code;
    - (ii) game-related digital content;
    - (iii) a loyalty card;
    - (iv) an in-store credit for returned merchandise;
    - (v) patronage capital of an electric, telephone, or agricultural cooperative; or
    - (vi) a gift card.
- (30) "Putative holder" means a person believed by the administrator to be a holder, until:
- (a) the person pays or delivers to the administrator property subject to this chapter; or
  - (b) the administrator or a court makes a final determination that the person is or is not a holder.
- (31) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- (32) "Security" means:
- (a) a security as defined in Revised Article 8 of the Uniform Commercial Code; or

- (b) a security entitlement as defined in Revised Article 8 of the Uniform Commercial Code, including a customer security account held by a registered broker-dealer, to the extent the financial assets held in the security account are not:
  - (i) registered on the books of the issuer in the name of the person for which the broker-dealer holds the assets;
  - (ii) payable to the order of the person;
  - (iii) specifically endorsed to the person; or
  - (iv) an equity interest in a business association not included in this Subsection (32).
- (33) "Sign" means, with present intent to authenticate or adopt a record:
  - (a) to execute or adopt a tangible symbol; or
  - (b) to attach to or logically associate with the record an electronic symbol, sound, or process.
- (34) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
- (35)
  - (a) "Stored-value card" means a reloadable or non-reloadable record:
    - (i) with a monetary value or amount that can be:
      - (A) used to purchase or otherwise acquire goods or services;
      - (B) used to obtain cash; or
      - (C) redeemed for cash value; and
    - (ii) of which the issuer or the issuer's agent has a record of the name and last known address of the apparent owner and the address is in the state of Utah.
  - (b) "Stored-value card" does not include:
    - (i) a record described in Subsection (35)(a) that is purchased or acquired by an intermediary or other party for resale, for sale on consignment, or as a gift to the card user, when the issuer does not know the name and address of the ultimate buyer or recipient of the record;
    - (ii) a loyalty card;
    - (iii) a gift card; or
    - (iv) game-related digital content.
- (36) "Utility" means a person that owns or operates for public use a plant, equipment, real property, franchise, or license for:
  - (a) the transmission of communications or information;
  - (b) the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas; or
  - (c) the provision of sewage or septic services, or trash, garbage, or recycling disposal.
- (37)
  - (a) "Virtual currency" means a digital representation of value used as a medium of exchange, unit of account, or store of value, which does not have legal tender status recognized by the United States.
  - (b) "Virtual currency" does not include:
    - (i) the software or protocols governing the transfer of the digital representation of value;
    - (ii) game-related digital content;
    - (iii) a loyalty card;
    - (iv) membership rewards; or
    - (v) a gift card.
- (38) "Worthless security" means a security whose cost of liquidation and delivery to the administrator would exceed the value of the security on the date a report is due under this chapter.

Amended by Chapter 78, 2019 General Session

**67-4a-103 Inapplicability to foreign transaction.**

This chapter does not apply to property held, due, and owing in a foreign country if the transaction out of which the property arose was a foreign transaction.

Repealed and Re-enacted by Chapter 371, 2017 General Session

**67-4a-104 Rulemaking.**

- (1) The administrator may adopt rules to implement and administer this chapter.
- (2) The administrator shall follow the notice, hearing, and publication requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Enacted by Chapter 371, 2017 General Session

## **Part 2**

### **Presumption of Abandonment**

**67-4a-201 When property presumed abandoned.**

Subject to Section 67-4a-208, the following property is presumed abandoned if the property is unclaimed by the apparent owner during the period specified below:

- (1) a traveler's check, 15 years after issuance;
- (2) a money order, seven years after issuance;
- (3) the unredeemed balance of a stored-value card sold or issued on or after May 8, 2018, three years after the date of the last indication of interest in the property by the apparent owner;
- (4) a state or municipal bond, bearer bond, or original-issue-discount bond, three years after the earliest of the date the bond matures or is called or the obligation to pay the principal of the bond arises;
- (5) a debt of a business association, three years after the obligation to pay arises;
- (6) a demand, savings, or time deposit, including a deposit that is automatically renewable, three years after the earlier of maturity or the date of the last indication of interest in the property by the apparent owner, except a deposit that is automatically renewable is considered matured on the deposit's initial date of maturity unless the apparent owner consented in a record on file with the holder to renewal at or about the time of the renewal;
- (7) money or a credit owed to a customer as a result of a retail business transaction, other than in-store credit for returned merchandise, three years after the obligation arose;
- (8) an amount owed by an insurance company on a life or endowment insurance policy or an annuity contract that has matured or terminated, three years after the obligation to pay arose under the terms of the policy or contract or, if a policy or contract for which an amount is owed on proof of death has not matured, by proof of the death of the insured or annuitant, as follows:
  - (a) with respect to an amount owed on a life or endowment insurance policy, the earlier of:
    - (i) three years after the policy insurer validates knowledge of the death of the insured; or
    - (ii) three years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve for the policy is based; and

- (b) with respect to an amount owed on an annuity contract, three years after the date the annuity contract insurer validates knowledge of the death of the annuitant;
- (9) property distributable by a business association in the course of dissolution, one year after the property becomes distributable;
- (10) property held by a court, including property received as proceeds of a class action, one year after the property becomes distributable;
- (11) property held by a government or governmental subdivision, agency, or instrumentality, including municipal bond interest and unredeemed principal under the administration of a paying agent or indenture trustee, one year after the property becomes distributable;
- (12) wages, commissions, bonuses, or reimbursements to which an employee is entitled, or other compensation for personal services, one year after the amount becomes payable;
- (13) a deposit or refund owed to a subscriber by a utility, one year after the deposit or refund becomes payable; and
- (14) property not specified in this section or Sections 67-4a-202 through 67-4a-206, the earlier of three years after the owner first has a right to demand the property or the obligation to pay or distribute the property arises.

Amended by Chapter 459, 2018 General Session

**67-4a-202 When tax-deferred retirement account presumed abandoned.**

- (1) Subject to Section 67-4a-208, property held in a pension account or retirement account that qualifies for tax deferral under the income tax laws of the United States is presumed abandoned if the property is unclaimed by the apparent owner three years after:
  - (a) the later of the following dates:
    - (i) except as in Subsection (1)(a)(ii), the date a communication sent by the holder by first-class United States mail to the apparent owner is returned to the holder undelivered by the United States Postal Service; or
    - (ii) if a communication under Subsection (1)(a)(i) is re-sent within 30 days after the date the first communication is returned undelivered, the date the second communication was returned undelivered by the United States Postal Service; or
  - (b) the earlier of the following dates:
    - (i) the date the apparent owner becomes 70.5 years of age, if determinable by the holder; or
    - (ii) if the Internal Revenue Code, Sec. 1 et seq., requires distribution to avoid a tax penalty, two years after the date the holder:
      - (A) receives confirmation of the death of the apparent owner in the ordinary course of the holder's business; or
      - (B) confirms the death of the apparent owner under Subsection (2).
- (2) If a holder in the ordinary course of the holder's business receives notice or an indication of the death of an apparent owner and Subsection (1)(b) applies, the holder shall attempt not later than 90 days after receipt of the notice or indication to confirm whether the apparent owner is deceased.
- (3)
  - (a) Subject to Subsection (3)(b), if the holder does not send communications to the apparent owner of an account described in Subsection (1) by first-class United States mail on at least an annual basis, the holder shall attempt to confirm the apparent owner's interest in the property by sending the apparent owner an electronic mail communication not later than two years after the apparent owner's last indication of interest in the property.



- (b) The holder shall promptly attempt to contact the apparent owner by first-class United States mail if:
  - (i) the holder does not have information needed to send the apparent owner an electronic mail communication or the holder believes that the apparent owner's electronic mail address in the holder's records is not valid;
  - (ii) the holder receives notification that the electronic mail communication was not received; or
  - (iii) the apparent owner does not respond to the electronic mail communication within 30 days after the communication was sent.
- (4) If first-class United States mail sent under Subsection (3) is returned to the holder undelivered by the United States Postal Service, the property is presumed abandoned three years after the later of:
  - (a) except as in Subsection (4)(b), the date a communication to contact the apparent owner sent by first-class United States mail is returned to the holder undelivered;
  - (b) if the communication under Subsection (4)(a) is re-sent within 30 days after the date the first communication is returned undelivered, the date the second communication was returned undelivered; or
  - (c) the date established by Subsection (1)(b).

Repealed and Re-enacted by Chapter 371, 2017 General Session

**67-4a-203 When other tax-deferred account presumed abandoned.**

Subject to Section 67-4a-208 and except for property described in Section 67-4a-202 and property held in a plan described in Section 529A, Internal Revenue Code, property held in an account or plan, including a health savings account, that qualifies for tax deferral under the income tax laws of the United States is presumed abandoned if the property is unclaimed by the apparent owner three years after the earlier of:

- (1) the date, if determinable by the holder, specified in the income tax laws and regulations of the United States by which distribution of the property must begin to avoid a tax penalty, with no distribution having been made; or
- (2) 30 years after the date the account was opened.

Repealed and Re-enacted by Chapter 371, 2017 General Session

**67-4a-204 When custodial account for minor presumed abandoned.**

- (1) Subject to Section 67-4a-208, and except as provided in Subsection (5), property held in an account established under a state's Uniform Gifts to Minors Act or Uniform Transfers to Minors Act is presumed abandoned if the property is unclaimed by or on behalf of the minor on whose behalf the account was opened three years after the later of:
  - (a) except as in Subsection (1)(b), the date a communication sent by the holder by first-class United States mail to the custodian of the minor on whose behalf the account was opened is returned undelivered to the holder by the United States Postal Service;
  - (b) if communication is re-sent within 30 days after the date the first communication under Subsection (1)(a) is returned undelivered, the date the second communication was returned undelivered; or
  - (c) the date on which the custodian is required to transfer the property to the minor or the minor's estate in accordance with the Uniform Gifts to Minors Act or Uniform Transfers to Minors Act of the state in which the account was opened.
- (2)

- (a) Subject to Subsection (2)(b), if the holder does not send communications to the custodian of the minor on whose behalf an account described in Subsection (1) was opened by first-class United States mail on at least an annual basis, the holder shall attempt to confirm the custodian's interest in the property by sending the custodian an electronic mail communication not later than two years after the custodian's last indication of interest in the property.
- (b) The holder shall promptly attempt to contact the custodian by first-class United States mail if:
  - (i) the holder does not have information needed to send the custodian an electronic mail communication or the holder believes that the custodian's electronic mail address in the holder's records is not valid;
  - (ii) the holder receives notification that the electronic mail communication was not received; or
  - (iii) the custodian does not respond to the electronic mail communication within 30 days after the communication was sent.
- (3) If first-class United States mail sent under Subsection (2) is returned undelivered to the holder by the United States Postal Service, the property is presumed abandoned three years after the later of:
  - (a) the date a second consecutive communication to contact the custodian by first-class United States mail is returned to the holder undelivered by the United States Postal Service; or
  - (b) the date established by Subsection (1)(c).
- (4) When the property in the account described in Subsection (1) is transferred to the minor on whose behalf an account was opened or to the minor's estate, the property in the account is no longer subject to this section.
- (5) This section does not apply to a qualified tuition program described in 26 U.S.C. Sec. 529.

Amended by Chapter 459, 2018 General Session

**67-4a-205 When contents of safe-deposit box presumed abandoned.**

Tangible property held in a safe-deposit box and proceeds from a sale of the property by the holder permitted by law of this state other than this chapter are presumed abandoned if the property remains unclaimed by the apparent owner five years after the earlier of the:

- (1) expiration of the lease or rental period for the box; or
- (2) earliest date when the lessor of the box is authorized by law of this state other than this chapter to enter the box and remove or dispose of the contents without consent or authorization of the lessee.

Repealed and Re-enacted by Chapter 371, 2017 General Session

**67-4a-206 When security presumed abandoned.**

- (1) Subject to Section 67-4a-208, a security is presumed abandoned three years after:
  - (a) the date a second consecutive communication sent by the holder by first-class United States mail to the apparent owner is returned to the holder undelivered by the United States Postal Service; or
  - (b) if the second communication is made later than 30 days after the first communication is returned, the date the first communication is returned undelivered to the holder by the United States Postal Service.
- (2)
  - (a) Except as provided in Subsection (2)(b), if the holder does not send communications to the apparent owner of a security by first-class United States mail, the holder shall attempt

to confirm the apparent owner's interest in the security by sending the apparent owner an electronic-mail communication not later than two years after the apparent owner's last indication of interest in the security.

- (b) The holder shall promptly attempt to contact the apparent owner by first-class United States mail if:
  - (i) the holder does not have information needed to send the apparent owner an electronic-mail communication or the holder believes that the apparent owner's electronic-mail address in the holder's records is not valid;
  - (ii) the holder receives notification that the electronic-mail communication was not received; or
  - (iii) the apparent owner does not respond to the electronic-mail communication not later than 30 days after the communication was sent.
- (3) If first-class United States mail sent under Subsection (2) is returned to the holder undelivered by the United States Postal Service, the security is presumed abandoned three years after the date the mail is returned.

Repealed and Re-enacted by Chapter 371, 2017 General Session

**67-4a-207 When related property presumed abandoned.**

At and after the time property is presumed abandoned under this chapter, any other property right or interest accrued or accruing from the property and not previously presumed abandoned is also presumed abandoned.

Repealed and Re-enacted by Chapter 371, 2017 General Session

**67-4a-208 Indication of apparent owner interest in property.**

- (1) The period after which property is presumed abandoned is measured from the later of:
  - (a) the date the property is presumed abandoned under this part; or
  - (b) the latest indication of interest by the apparent owner in the property.
- (2) Under this chapter, an indication of an apparent owner's interest in property includes:
  - (a) a record communicated by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held;
  - (b) an oral communication by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held, if the holder or the holder's agent contemporaneously makes and preserves a record of the fact of the apparent owner's communication;
  - (c) presentment of a check or other instrument of payment of a dividend, interest payment, or other distribution, or evidence of receipt of a distribution made by electronic or similar means, with respect to an account, underlying security, or interest in a business association;
  - (d) activity directed by an apparent owner in the account in which the property is held, including accessing the account or information concerning the account, or a direction by the apparent owner to increase, decrease, or otherwise change the amount or type of property held in the account;
  - (e) a deposit into or withdrawal from an account at a banking organization or financial organization, including an automatic deposit or withdrawal previously authorized by the apparent owner other than an automatic reinvestment of dividends or interest;
  - (f) any other action by the apparent owner which reasonably demonstrates to the holder that the apparent owner knows that the account exists; and
  - (g) subject to Subsection (5), payment of a premium on an insurance policy.

- (3) An action by an agent or other representative of an apparent owner, other than the holder acting as the apparent owner's agent, is presumed to be an action on behalf of the apparent owner.
- (4) A communication with an apparent owner by a person other than the holder or the holder's representative is not an indication of interest in the property by the apparent owner unless a record of the communication evidences the apparent owner's knowledge of a right to the property.
- (5) If the insured dies or the insured or beneficiary of an insurance policy otherwise becomes entitled to the proceeds before depletion of the cash surrender value of the policy by operation of an automatic premium loan provision or other nonforfeiture provision contained in the policy, the operation does not prevent the policy from maturing or terminating.

Amended by Chapter 78, 2019 General Session

**67-4a-209 Deposit account for proceeds of insurance policy or annuity contract.**

If proceeds payable under a life or endowment insurance policy or annuity contract are deposited into an account with check- or draft-writing privileges for the beneficiary of the policy or contract and, under a supplementary contract not involving annuity benefits other than death benefits, the proceeds are retained by the insurance company, the financial organization, or the banking organization where the account is held, the policy or contract includes the assets in the account.

Repealed and Re-enacted by Chapter 371, 2017 General Session

**67-4a-215 Knowledge of death of insured or annuitant.**

- (1) As used in this section:
  - (a) "Death master file" means:
    - (i) the United States Social Security Administration death master file; or
    - (ii) another database or service that is at least as comprehensive as the United States Social Security Administration death master file for determining that an individual has reportedly died.
  - (b) "Special administrator" means the same as that term is defined in Section 75-1-201.
- (2) With respect to a life or endowment insurance policy or annuity contract for which an amount is owed on proof of death, but which has not matured by proof of death of the insured or annuitant, the company is deemed to have knowledge of the death of an insured or annuitant when:
  - (a) the company receives a death certificate or court order determining that the insured or annuitant has died;
  - (b) due diligence, performed as required under Section 31A-22-1903, to maintain contact with the insured or annuitant to determine whether the insured or annuitant has died validates the death of the insured or annuitant;
  - (c) the company conducts a comparison for any purpose between a death master file and the names of some of the company's insureds or annuitants and finds a match that provides notice that the insured or annuitant has died, and the company validates the death; or
  - (d) the company:
    - (i) receives notice of the death of the insured or annuitant from a special administrator, beneficiary, policy owner, relative of the insured, or trustee or from a personal

- representative, executor, or other legal representative of the insured's or annuitant's estate;  
and
- (ii) validates the death of the insured or annuitant.
- (3) A death master file match under Subsection (2)(c) occurs if the criteria for an exact or partial match are satisfied as provided by:
- (a) a law of this state other than this chapter, including Section 31A-22-1903; or
- (b) a rule or policy adopted by the Insurance Department.
- (4) A death master file match does not constitute proof of death for the purpose of a beneficiary, annuitant, or owner of an insurance policy or annuitant contract submitting a claim to an insurance company.
- (5) The death master file match or validation of the insured's or annuitant's death does not alter the requirements for a beneficiary, annuitant, or owner of the policy or contract to make a claim to receive proceeds under the terms of the policy or contract.
- (6) If a provision in Section 31A-22-1903 does not establish a time for validation of a death of an insured or annuitant, the insurance company shall make a good faith effort using other available records and information, no later than 90 days after the insurance company has notice of the death, to:
- (a) validate the death; and
- (b) document the effort taken.
- (7) This section does not affect the determination of the extent to which an insurance company, before May 14, 2019:
- (a) had knowledge of the death of an insured or annuitant; or
- (b) was required to conduct a death master file comparison to determine whether amounts owed by the company on a life or endowment insurance policy or annuity contract were presumed or abandoned.

Enacted by Chapter 78, 2019 General Session

### **Part 3**

#### **Rules for Taking Custody of Property Presumed Abandoned**

##### **67-4a-301 Address of apparent owner to establish priority.**

In this part, the following rules apply:

- (1) the last known address of an apparent owner is any description, code, or other indication of the location of the apparent owner that identifies the state, even if the description, code, or indication of location is not sufficient to direct the delivery of first-class United States mail to the apparent owner;
- (2) if the United States postal zip code associated with the apparent owner is for a post office located in this state, this state is considered to be the state of the last known address of the apparent owner unless other records associated with the apparent owner specifically identify the physical address of the apparent owner to be in another state;
- (3) if the address under Subsection (2) is in another state, the other state is considered to be the state of the last-known address of the apparent owner; and
- (4) the address of the apparent owner of a life or endowment insurance policy or annuity contract or the policy's or contract's proceeds is presumed to be the address of the insured or annuitant if a person other than the insured or annuitant is entitled to the amount owed under the policy

or contract and the address of the other person is not known by the insurance company and cannot be determined under Section 67-4a-302.

Repealed and Re-enacted by Chapter 371, 2017 General Session

**67-4a-302 Address of apparent owner in this state.**

The administrator may take custody of property that is presumed abandoned, whether located in this state, another state, or a foreign country if:

- (1) the last known address of the apparent owner in the records of the holder is in this state; or
- (2) the records of the holder do not reflect the identity or last known address of the apparent owner, but the administrator has determined that the last known address of the apparent owner is in this state.

Repealed and Re-enacted by Chapter 371, 2017 General Session

**67-4a-303 If records show multiple addresses of apparent owner.**

- (1) Except as in Subsection (2), if records of a holder reflect multiple addresses for an apparent owner and this state is the state of the most recently recorded address, this state may take custody of property presumed abandoned, whether located in this state or another state.
- (2) If it appears from records of the holder that the most recently recorded address of the apparent owner under Subsection (1) is a temporary address and this state is the state of the next most recently recorded address that is not a temporary address, this state may take custody of the property presumed abandoned.

Repealed and Re-enacted by Chapter 371, 2017 General Session

**67-4a-304 Holder domiciled in this state.**

- (1) Except as in Subsection (2) or Section 67-4a-302 or 67-4a-303, the administrator may take custody of property presumed abandoned, whether located in this state, another state, or a foreign country, if the holder is domiciled in this state or is this state or a governmental subdivision, agency, or instrumentality of this state, and:
  - (a) another state or foreign country is not entitled to the property because there is no last known address of the apparent owner or other person entitled to the property in the records of the holder; or
  - (b) the state or foreign country of the last known address of the apparent owner or other person entitled to the property does not provide for custodial taking of the property.
- (2) Property is not subject to custody of the administrator under Subsection (1) if the property is specifically exempt from custodial taking under the law of this state or the state or foreign country of the last known address of the apparent owner.
- (3) If a holder's state of domicile has changed since the time property was presumed abandoned, the holder's state of domicile in this section is considered to be the state where the holder was domiciled at the time the property was presumed abandoned.

Enacted by Chapter 371, 2017 General Session

**67-4a-305 Custody if transaction took place in this state.**

Except as in Section 67-4a-302, 67-4a-303, or 67-4a-304, the administrator may take custody of property presumed abandoned whether located in this state or another state if:

- (1) the transaction out of which the property arose took place in this state;
- (2) the holder is domiciled in a state that does not provide for the custodial taking of the property, except that if the property is specifically exempt from custodial taking under the law of the state of the holder's domicile, the property is not subject to the custody of the administrator; and
- (3) the last known address of the apparent owner or other person entitled to the property is unknown or in a state that does not provide for the custodial taking of the property, except that if the property is specifically exempt from custodial taking under the law of the state of the last known address, the property is not subject to the custody of the administrator.

Enacted by Chapter 371, 2017 General Session

**67-4a-306 Traveler's check, money order, or similar instrument.**

The administrator may take custody of sums payable on a traveler's check, money order, or similar instrument presumed abandoned to the extent permissible under 12 U.S.C. Secs. 2501 through 2503.

Enacted by Chapter 371, 2017 General Session

**67-4a-307 Burden of proof to establish administrator's right to custody.**

Subject to Part 4, Report by Holder, if the administrator asserts a right to custody of unclaimed property and there is a dispute concerning such property, the administrator has the initial burden to prove:

- (1) the existence and amount of the property;
- (2) the property is presumed abandoned; and
- (3) the property is subject to the custody of the administrator.

Enacted by Chapter 371, 2017 General Session

## **Part 4 Report by Holder**

**67-4a-401 Report required by holder.**

- (1)
  - (a) A holder of property presumed abandoned and subject to the custody of the administrator shall report in a record to the administrator concerning the property.
  - (b) A holder shall report via the Internet in a format approved by the administrator, unless the administrator gives a holder specific permission to file a paper report.
- (2) A holder may contract with a third party to make the report required under Subsection (1).
- (3) Whether or not a holder contracts with a third party under Subsection (2), the holder is responsible:
  - (a) to the administrator for the complete, accurate, and timely reporting of property presumed abandoned; and
  - (b) for paying or delivering to the administrator property described in the report.

Repealed and Re-enacted by Chapter 371, 2017 General Session

**67-4a-402 Content of report.**

- (1) The report required under Section 67-4a-401 shall:
  - (a) be signed by or on behalf of the holder and verified as to the report's completeness and accuracy;
  - (b) if filed electronically, be in a secure format approved by the administrator that protects confidential information of the apparent owner;
  - (c) describe the property;
  - (d) except for a traveler's check, money order, or similar instrument, contain the name, if known, last known address, if known, and social security number or taxpayer identification number, if known or readily ascertainable, of the apparent owner of property with a value of \$50 or more;
  - (e) for an amount held or owing under a life or endowment insurance policy or annuity contract, contain the name and last known address of the insured, annuitant, or other apparent owner of the policy or contract and of the beneficiary;
  - (f) for property held in or removed from a safe-deposit box, indicate the location of the property, where the property may be inspected by the administrator, and any amounts owed to the holder under Section 67-4a-606;
  - (g) contain the commencement date for determining abandonment under Part 2, Presumption of Abandonment;
  - (h) state that the holder has complied with the notice requirements of Section 67-4a-501;
  - (i) identify property that is a nonfreely transferable security and explain why the property is a nonfreely transferable security; and
  - (j) contain other information the administrator prescribes by rules.
- (2)
  - (a) A report under Section 67-4a-401 may include in the aggregate items valued under \$50 each.
  - (b) If the report includes items in the aggregate valued under \$50 each, the administrator may not require the holder to provide the name and address of an apparent owner of an item unless the information is necessary to verify or process a claim in progress by the apparent owner.
- (3) A report under Section 67-4a-401 may include personal information as defined in Subsection 67-4a-1401(1) about the apparent owner or the apparent owner's property.
- (4) If a holder has changed the holder's name while holding property presumed abandoned or is a successor to another person that previously held the property for the apparent owner, the holder shall include in the report under Section 67-4a-401:
  - (a) the holder's former name or the name of the previous holder, if any; and
  - (b) the known name and address of each previous holder of the property.

Repealed and Re-enacted by Chapter 371, 2017 General Session

**67-4a-403 When report to be filed.**

- (1) Subject to Subsection (2), the report under Section 67-4a-401 shall be filed before November 1 of each year and cover the 12 months preceding July 1 of that year.
- (2)
  - (a) Before the date for filing the report under Section 67-4a-401, the holder of property presumed abandoned may request the administrator to extend the time for filing.
  - (b) The administrator may grant an extension.
  - (c) If the extension is granted, the holder may pay or make a partial payment of the amount the holder estimates ultimately will be due.
  - (d) The payment or partial payment terminates accrual of interest on the amount paid.



Repealed and Re-enacted by Chapter 371, 2017 General Session

**67-4a-404 Retention of records by holder.**

- (1) A holder required to file a report under Section 67-4a-401 shall retain records for five years after the later of the date the report was filed or the last date a timely report was due to be filed, unless a shorter period is provided by rule of the administrator.
- (2) The holder may satisfy the requirement to retain records under this section through an agent.
- (3) The records shall contain:
  - (a) the information required to be included in the report;
  - (b) the date, place, and nature of the circumstances that gave rise to the property right;
  - (c) the amount or value of the property;
  - (d) the last address of the apparent owner, if known to the holder; and
  - (e) if the holder sells, issues, or provides to others for sale or issue in this state traveler's checks, money orders, or similar instruments, other than third-party bank checks, on which the holder is directly liable, a record of the instruments while they remain outstanding indicating the state and date of issue.

Repealed and Re-enacted by Chapter 371, 2017 General Session

**67-4a-405 Property reportable and payable or deliverable absent owner demand.**

Property is reportable and payable or deliverable under this chapter even if the owner fails to make demand or present an instrument or document otherwise required to obtain payment.

Repealed and Re-enacted by Chapter 371, 2017 General Session

**Part 5**

**Notice to Apparent Owner of Property Presumed Abandoned**

**67-4a-501 Notice to apparent owner by holder.**

- (1) Subject to Subsection (2), the holder of property presumed abandoned shall send to the apparent owner notice by first-class United States mail that complies with Section 67-4a-502 in a format acceptable to the administrator not more than 180 days nor less than 60 days before filing the report under Section 67-4a-401 if:
  - (a) the holder has in the holder's records an address for the apparent owner that the holder's records do not disclose to be invalid and is sufficient to direct the delivery of first-class United States mail to the apparent owner; and
  - (b) the value of the property is \$50 or more.
- (2) If an apparent owner has consented to receive electronic mail delivery from the holder, the holder shall send the notice described in Subsection (1) both by first-class United States mail to the apparent owner's last-known mailing address and by electronic mail, unless the holder believes that the apparent owner's electronic mail address is invalid.

Amended by Chapter 281, 2018 General Session

**67-4a-502 Contents of notice by holder.**

- (1) Notice under Section 67-4a-501 shall contain a heading that reads substantially as follows:

"Notice. The State of Utah requires us to notify you that your property may be transferred to the custody of the state's unclaimed property administrator if you do not contact us before (insert date that is 30 days after the date of this notice)."

- (2) The notice under Section 67-4a-501 shall:
  - (a) identify the nature and, except for property that does not have a fixed value, the value of the property that is the subject of the notice;
  - (b) state that the property will be turned over to the administrator;
  - (c) state that after the property is turned over to the administrator an apparent owner that seeks return of the property may file a claim with the administrator;
  - (d) state that property that is not legal tender of the United States may be sold by the administrator;
  - (e) provide instructions that the apparent owner shall follow to prevent the holder from reporting and paying or delivering the property to the administrator; and
  - (f) include the name, address, and electronic mail address or telephone number to contact the holder.
- (3) The holder may supplement the required information by listing a website where apparent owners may obtain more information about how to prevent the holder from reporting and paying or delivering the property to the state treasurer.

Repealed and Re-enacted by Chapter 371, 2017 General Session

**67-4a-503 Notice by administrator.**

- (1) The administrator shall give notice to an apparent owner that property presumed abandoned and that appears to be owned by the apparent owner is held by the administrator under this chapter.
- (2) In providing notice under Subsection (1), the administrator shall:
  - (a) except as otherwise provided in Subsection (2)(b), send written notice by first-class United States mail to each apparent owner of property valued at \$50 or more held by the administrator, unless the administrator determines that a mailing by first-class United States mail would not be received by the apparent owner, and, in the case of a security held in an account for which the apparent owner had consented to receiving electronic mail from the holder, send notice by electronic mail if the electronic mail address of the apparent owner is known to the administrator instead of by first-class United States mail; or
  - (b) send the notice to the apparent owner's electronic mail address if the administrator does not have a valid United States mail address for an apparent owner, but has an electronic mail address that the administrator does not know to be invalid.
- (3) In addition to the notice under Subsection (2), the administrator shall publish every 12 months in at least one English language newspaper of general circulation in this state notice of property held by the administrator, which shall include:
  - (a) the total value of property received by the administrator during the preceding 12-month period, taken from the reports under Section 67-4a-401;
  - (b) the total value of claims paid by the administrator during the preceding 12-month period;
  - (c) the Internet web address of the unclaimed property website maintained by the administrator;
  - (d) a telephone number and electronic mail address to contact the administrator to inquire about or claim property; and
  - (e) a statement that a person may access the Internet by a computer to search for unclaimed property, and a computer may be available as a service to the public at a local public library.
- (4)

- (a) The administrator shall maintain a website accessible by the public and electronically searchable that contains the names reported to the administrator of apparent owners for whom property is being held by the administrator.
- (b) The administrator is not required to list property on the website if:
  - (i) no owner name was reported;
  - (ii) a claim has been initiated or is pending for the property;
  - (iii) the Office of the State Treasurer has made direct contact with the apparent owner of the property; or
  - (iv) the administrator reasonably believes exclusion of the property is in the best interests of both the state and the owner of the property.
- (5) The website or database maintained under Subsection (4) shall include instructions for filing with the administrator a claim to property and a printable claim form with instructions.
- (6)
  - (a) At least annually, the administrator shall notify the State Tax Commission of the names and social security numbers or federal identification numbers of any persons appearing to be owners of abandoned property under this chapter.
  - (b) The State Tax Commission shall:
    - (i) determine if any person under Subsection (6)(a) has filed a Utah income tax return in that year; and
    - (ii) provide notice to a person described in Subsection (6)(b)(i) that directs the person to access the website described in Subsection (4) for information on property that may be held by the administrator in that person's name.
  - (c) Subject to Subsection (7), in order to facilitate the return of property under this Subsection (6), the administrator and the State Tax Commission may enter into an interagency agreement concerning protection of confidential information, data match rules, and other issues.
- (7) If the administrator and the State Tax Commission enter into an interagency agreement under Subsection (6)(c), for each person that is owed property that has a value of \$2,000 or less:
  - (a) the administrator shall deliver the property or pay the amount owed to the person in the manner provided under Section 67-4a-905; and
  - (b) the person is not required to file a claim under Section 67-4a-903.
- (8) The administrator may use publicly and commercially available databases to find and update or add information for apparent owners of property held by the administrator.
- (9) The State Tax Commission may bill the administrator to recover the State Tax Commission's costs for providing the service under this section.
- (10) In addition to giving notice under Subsection (2), publishing the information under Subsection (3), and maintaining the website or database under Subsection (4), the administrator may use other printed publication, telecommunication, the Internet, or other media to inform the public of the existence of unclaimed property held by the administrator.

Amended by Chapter 459, 2018 General Session

**67-4a-504 Cooperation among state officers and agencies to locate apparent owner.**

- (1) Unless prohibited by law of this state other than this chapter, on request of the administrator, each officer, agency, board, commission, division, and department of this state, any body politic and corporate created by this state for a public purpose, and each political subdivision of this state shall:
  - (a) make books and records available to the administrator; and

- (b) cooperate with the administrator to determine the current address of an apparent owner of property held by the administrator under this chapter.
- (2) At the administrator's discretion, the administrator may also enter into data sharing agreements to enable other governmental agencies to provide an additional notice to apparent owners of property held by the administrator.

Enacted by Chapter 371, 2017 General Session

## **Part 6**

### **Taking Custody of Property by Administrator**

#### **67-4a-601 Definition of good faith.**

In this chapter, payment or delivery of property is made in good faith if a holder:

- (1) had a reasonable basis for believing, based on the facts then known, that the property was required or permitted to be paid or delivered to the administrator under this chapter; or
- (2) made payment or delivery:
  - (a) in response to a demand by the administrator or administrator's agent; or
  - (b) under a guidance or ruling issued by the administrator that the holder reasonably believed required or permitted the property to be paid or delivered.

Repealed and Re-enacted by Chapter 371, 2017 General Session

#### **67-4a-602 Dormancy charge.**

- (1) A holder may deduct a dormancy charge from property required to be paid or delivered to the administrator if:
  - (a) a valid contract between the holder and the apparent owner authorizes imposition of the charge for the apparent owner's failure to claim the property within a specified time; and
  - (b) the holder regularly imposes the charge and regularly does not reverse or otherwise cancel the charge.
- (2) The amount of the deduction under Subsection (1) is limited to an amount that is not unconscionable considering all relevant factors, including:
  - (a) the marginal transactional costs incurred by the holder in maintaining the apparent owner's property; and
  - (b) any services received by the apparent owner.

Repealed and Re-enacted by Chapter 371, 2017 General Session

#### **67-4a-603 Payment or delivery of property to administrator.**

- (1)
  - (a) Except as otherwise provided in this section, on filing a report under Section 67-4a-401 the holder shall pay or deliver to the administrator the property described in the report.
  - (b) If property in a report under Section 67-4a-401 is an automatically renewable deposit and a penalty or forfeiture in the payment of interest would result from paying the deposit to the administrator at the time of the report, the date for payment of the property to the administrator is extended until a penalty or forfeiture no longer would result from payment, if the holder informs the administrator of the extended date.

- (2) Tangible property in a safe-deposit box may not be delivered to the administrator until 120 days after filing the report under Section 67-4a-401.
- (3) If property reported to the administrator under Section 67-4a-401 is a security, the administrator may:
  - (a) make an endorsement, instruction, or entitlement order on behalf of the apparent owner to invoke the duty of the issuer, the transfer agent, or the securities intermediary to transfer the security; or
  - (b) dispose of the security under Section 67-4a-702.
- (4)
  - (a) If the holder of property reported to the administrator under Section 67-4a-401 is the issuer of a certificated security, the administrator may obtain a replacement certificate in physical or book-entry form under Section 70A-8-405.
  - (b) An indemnity bond is not required under Subsection (4)(a).
- (5) The administrator shall establish procedures for the registration, issuance, method of delivery, transfer, and maintenance of securities delivered to the administrator by a holder.
- (6) An issuer, holder, and transfer agent or other person acting in good faith under this section under instructions of and on behalf of the issuer or holder is not liable to the apparent owner for, and shall be indemnified by the state against, a claim arising with respect to property after the property has been delivered to the administrator.
- (7)
  - (a) A holder is not required to deliver to the administrator a security identified by the holder as a nonfreely transferable security in a report filed under Section 67-4a-401.
  - (b) If the administrator or holder determines that a security is no longer a nonfreely transferable security, the holder shall deliver the security on the next regular date prescribed for delivery of securities under this chapter.
  - (c) The holder shall make a determination annually whether a security identified in a report filed under Section 67-4a-401 as a nonfreely transferable security is no longer a nonfreely transferable security.

Enacted by Chapter 371, 2017 General Session

**67-4a-604 Effect of payment or delivery of property to administrator.**

- (1) On payment or delivery of property to the administrator under this chapter, the administrator as agent for the state assumes custody and responsibility for safekeeping the property.
- (2) A holder that pays or delivers property to the administrator in good faith and substantially complies with Sections 67-4a-501 and 67-4a-502 is relieved of all liability that thereafter may arise or be made in respect to the property to the extent of the value of the property so paid or delivered.
- (3)
  - (a) In the event legal proceedings are instituted by any other state or states in any state or federal court with respect to unclaimed funds or abandoned property previously paid or delivered to the administrator, the holder shall give written notification to the administrator and the attorney general of this state of the proceedings within 10 days after service of process, or in the alternative at least 10 days before the return date or date on which an answer or similar pleading is due or any extension thereof secured by the holder.
  - (b) The attorney general may take such action as considered necessary or expedient to protect the interests of the state of Utah.

- (c) The attorney general, by written notice before the return date or date on which an answer or similar pleading is due or any extension thereof secured by the holder, but in any event in reasonably sufficient time for the holder to comply with the directions received, shall either direct the holder:
  - (i) to actively defend in the proceedings; or
  - (ii) that no defense need be entered in the proceedings.
- (d)
  - (i) If a direction is received from the attorney general that the holder need not make a defense under Subsection (3)(c)(ii), the holder is not precluded from entering a defense in the holder's own name.
  - (ii) If a defense is made by the holder on the holder's own initiative, the holder is not entitled to reimbursement for legal fees, costs, and other expenses as provided in this section for defenses made pursuant to the directions of the attorney general.
- (e) If, after the holder has actively defended in the proceedings pursuant to a direction of the attorney general or has been notified in writing by the attorney general that no defense need be made with respect to the funds, a judgment is entered against the holder for any amount paid to the administrator under this chapter, the administrator shall, upon being furnished with proof of payment in satisfaction of the judgment, reimburse the holder the amount paid.
- (f) The administrator shall also reimburse the holder for any legal fees, costs, and other directly related expenses incurred in legal proceedings undertaken pursuant to the direction of the attorney general.

Enacted by Chapter 371, 2017 General Session

**67-4a-605 Recovery of property by holder from administrator.**

- (1) A holder that under this chapter pays money to the administrator may file a claim for reimbursement from the administrator of the amount paid if the holder:
  - (a) paid the money in error; or
  - (b) after paying the money to the administrator, paid money to a person the holder reasonably believed entitled to the money.
- (2)
  - (a) If a claim for reimbursement under Subsection (1) is made for a payment made on a negotiable instrument, including a traveler's check, money order, or similar instrument, the holder shall submit proof that the instrument was presented and payment was made to a person the holder reasonably believed entitled to payment.
  - (b) The holder may claim reimbursement even if the payment was made to a person whose claim was made after expiration of a period of limitation on the owner's right to receive or recover property, whether specified by contract, statute, or court order.
- (3) If a holder is reimbursed by the administrator under Subsection (1)(b), the holder may also recover from the administrator income or gain under Section 67-4a-607 that would have been paid to the owner if the money had been claimed from the administrator by the owner to the extent the income or gain was paid by the holder to the owner.
- (4)
  - (a) A holder that under this chapter delivers property other than money to the administrator may file a claim for return of the property from the administrator if:
    - (i) the holder delivered the property in error; or
    - (ii) the apparent owner has claimed the property from the holder.

- (b) If a claim for return of property under Subsection (4)(a) is made, the holder shall include with the claim evidence sufficient to establish that the apparent owner has claimed the property from the holder or that the property was delivered by the holder to the administrator in error.
- (5) The administrator may determine that an affidavit submitted by a holder is evidence sufficient to establish that the holder is entitled to reimbursement or to recover property under this section.
- (6) A holder is not required to pay a fee or other charge for reimbursement or return of property under this section.
- (7)
  - (a) Not later than 90 days after a claim is filed under Subsection (1) or (4), the administrator shall allow or deny the claim and give the claimant notice of the decision in a record.
  - (b) If the administrator does not take action on a claim during the 90-day period, the claim is considered denied.
- (8) The claimant may initiate a proceeding under Section 63G-4-301, for review of the administrator's decision or the considered denial under Subsection (7)(b) not later than:
  - (a) 30 days following receipt of the notice of the administrator's decision; or
  - (b) 120 days following the filing of a claim under Subsection (1) or (4) in the case of a considered denial under Subsection (7)(b).
- (9) A final decision in an administrative proceeding initiated under Subsection (8) is subject to judicial review by the court as a matter of right in a de novo proceeding on the record in which either party is entitled to introduce evidence as a supplement to the record.

Enacted by Chapter 371, 2017 General Session

**67-4a-606 Property removed from safe-deposit box.**

- (1) Property removed from a safe-deposit box and delivered to the administrator under this chapter is subject to:
  - (a) the holder's right to reimbursement for the cost of opening the box; and
  - (b) a lien or contract providing reimbursement to the holder for unpaid rent charges for the box.
- (2) The administrator shall reimburse the holder from the proceeds remaining after deducting the expense incurred by the administrator in selling the property.

Enacted by Chapter 371, 2017 General Session

**67-4a-607 Crediting income or gain to owner's account.**

- (1) If property other than money is delivered to the administrator, the owner is entitled to receive from the administrator income or gain realized or accrued on the property before the property is sold.
- (2) Interest on money, including interest on interest bearing property, is not payable to an owner for periods where the property is in the possession of the state.

Enacted by Chapter 371, 2017 General Session

**67-4a-608 Administrator's options as to custody.**

- (1) The administrator may decline to take custody of property reported under Section 67-4a-401 if the administrator determines that:
  - (a) the property has a value less than the estimated expenses of notice and sale of the property; or
  - (b) taking custody of the property would be unlawful.

- (2) A holder may pay or deliver property to the administrator before the property is presumed abandoned under this chapter if the holder:
  - (a) sends the apparent owner of the property notice required by Section 67-4a-501 and provides the administrator evidence of the holder's compliance with this Subsection (2);
  - (b) includes with the payment or delivery a report regarding the property conforming to Section 67-4a-402; and
  - (c) first obtains the administrator's consent in a record to accept payment or delivery.
- (3)
  - (a) A holder's request for the administrator's consent under Subsection (2)(c) shall be in a record.
  - (b) If the administrator fails to respond to the request not later than 30 days after receipt of the request, the administrator is considered to consent to the payment or delivery of the property and the payment or delivery is considered to have been made in good faith.
- (4) On payment or delivery of property under Subsection (2), the property is presumed abandoned.

Enacted by Chapter 371, 2017 General Session

**67-4a-609 Disposition of property having no substantial value -- Immunity from liability.**

- (1) If the administrator takes custody of property delivered under this chapter and later determines that the property has no substantial commercial value or that the cost of disposing of the property will exceed the value of the property, the administrator may return the property to the holder or destroy or otherwise dispose of the property.
- (2) An action or proceeding may not be commenced against the state, an agency of the state, the administrator, another officer, employee, or agent of the state, or a holder for or because of an act of the administrator under this section, except for intentional misconduct or malfeasance.

Enacted by Chapter 371, 2017 General Session

**67-4a-610 Periods of limitation and repose.**

- (1) Expiration, before, on, or after the effective date of this chapter, of a period of limitation on an owner's right to receive or recover property, whether specified by contract, statute, or court order, does not prevent the property from being presumed abandoned or affect the duty of a holder under this chapter to file a report or pay or deliver property to the administrator.
- (2) An action or proceeding may not be maintained by the administrator to enforce this chapter in regard to the reporting, delivery, or payment of property more than five years after the holder:
  - (a)
    - (i) filed a nonfraudulent report under Section 67-4a-401 with the administrator; and
    - (ii) specifically identified the property in the report filed with the administrator under Subsection (2)(a); or
  - (b) gave express notice to the administrator of a dispute regarding the property.
- (3)
  - (a) In the absence of a report or other express notice under Subsection (2), the period of limitation is tolled.
  - (b) The period of limitation is also tolled by the filing of a report that is fraudulent.
- (4) The administrator may not commence an action, proceeding, or examination regarding the duty of a holder under this chapter on a day that is more than 10 years after the day on which the duty arises.

Enacted by Chapter 371, 2017 General Session



## **Part 7**

### **Sale of Property by Administrator**

#### **67-4a-701 Public sale of property.**

- (1) Subject to Section 67-4a-702, not earlier than three years after receipt of property presumed abandoned, the administrator may sell the property.
- (2) Before selling property under Subsection (1), the administrator shall give notice to the public of:
  - (a) the date of the sale; and
  - (b) a reasonable description of the property.
- (3) A sale under Subsection (1) shall be to the highest bidder:
  - (a) at a public sale at a location in this state that the administrator determines to be the most favorable market for the property;
  - (b) on the Internet; or
  - (c) on another forum the administrator determines likely to yield the highest net proceeds of sale.
- (4) The administrator may decline the highest bid at a sale under this section and reoffer the property for sale if the administrator determines the highest bid is insufficient.
- (5) If a sale held under this section is to be conducted other than on the Internet, the administrator shall cause to be published at least one notice of the sale, at least two weeks but not more than five weeks before the sale, in a newspaper of general circulation in the county in which the property is to be sold.
- (6)
  - (a) Property eligible for sale will not be sold if a claim has been filed with the administrator by an apparent owner, heir, or agent.
  - (b) Upon approval of a claim, the owner, heir, or agent may request the administrator to dispose of the property by sale and remit the net proceeds to the owner, heir, or agent.
  - (c) Upon disapproval of the claim, the administrator may dispose of the property by sale.

Repealed and Re-enacted by Chapter 371, 2017 General Session

#### **67-4a-702 Disposal of securities.**

- (1) The administrator may not sell or otherwise liquidate a security until three years after the administrator receives the security and gives the apparent owner notice under Section 67-4a-503 that the administrator holds the security.
- (2) The administrator may not sell a security listed on an established stock exchange for less than the price prevailing on the exchange at the time of sale.
- (3) The administrator may sell a security not listed on an established exchange by any commercially reasonable method.

Repealed and Re-enacted by Chapter 371, 2017 General Session

#### **67-4a-703 Recovery of securities or value by owner.**

- (1) The administrator may not be held liable for any loss or gain in the value that the financial instrument would have obtained had the financial instrument been held instead of being sold.
- (2) Upon approval of a claim, the owner, heir, or agent may request the administrator to dispose of the securities by sale and remit the net proceeds to the owner, heir, or agent.

(3) Upon disapproval of the claim, the administrator may dispose of the securities by sale.

Repealed and Re-enacted by Chapter 371, 2017 General Session

**67-4a-704 Purchaser owns property after sale.**

- (1) A purchaser of property at a sale conducted by the administrator under this chapter takes the property free of all claims of the owner, a previous holder, or a person claiming through the owner or holder.
- (2) The administrator shall execute documents necessary to complete the transfer of ownership to the purchaser.

Repealed and Re-enacted by Chapter 371, 2017 General Session

**67-4a-705 Military medal or decoration.**

- (1) The administrator may not sell a medal or decoration awarded for military service in the armed forces of the United States.
- (2) The administrator, with the consent of the respective organization under Subsection (2)(a), agency under Subsection (2)(b), or entity under Subsection (2)(c), may deliver a medal or decoration described in Subsection (1), to be held in custody for the owner, to:
  - (a) a military veterans organization qualified under 26 U.S.C. Sec. 501(c)(19);
  - (b) the agency that awarded the medal or decoration; or
  - (c) a governmental entity.
- (3) On delivery under Subsection (2), the administrator is not responsible for safekeeping the medal or decoration.

Repealed and Re-enacted by Chapter 371, 2017 General Session

## **Part 8**

### **Administration of Property**

**67-4a-801 Unclaimed Property Fund -- Deposit of funds by administrator.**

- (1)
  - (a) There is created a custodial fund entitled the "Unclaimed Property Fund."
  - (b) Except as otherwise provided in this section, the administrator shall deposit all funds received under this chapter, including proceeds from the sale of property under Part 7, Sale of Property by Administrator, in the fund.
  - (c) The fund shall earn interest.
- (2) The administrator shall:
  - (a) pay any legitimate claims or deductions authorized by this chapter from the fund;
  - (b) before the end of the fiscal year, estimate the amount of money from the fund that will ultimately be needed to be paid to claimants; and
  - (c) at the end of the fiscal year, transfer any amount in excess of that amount to the Uniform School Fund, except that unclaimed restitution for crime victims shall be transferred to the Crime Victim Reparations Fund.
- (3) Before making any transfer to the Uniform School Fund, the administrator may deduct from the fund:

- (a) amounts appropriated by the Legislature for administration of this chapter;
- (b) any costs incurred in connection with the sale of abandoned property;
- (c) costs of mailing and publication in connection with any abandoned property;
- (d) reasonable service charges; and
- (e) costs incurred in examining records of holders of property and in collecting the property from those holders.

Amended by Chapter 451, 2022 General Session

**67-4a-802 Administrator to retain records of property.**

The administrator shall:

- (1) record and retain the name and last known address of each person shown on a report filed under Section 67-4a-401 to be the apparent owner of property delivered to the administrator;
- (2) record and retain the name and last known address of each insured or annuitant and beneficiary shown on the report;
- (3) for each policy of insurance or annuity contract listed in the report of an insurance company, record and retain the policy or account number, the name of the company, and the amount due or paid; and
- (4) for each apparent owner listed in the report, record and retain the name of the holder that filed the report and the amount due or paid.

Repealed and Re-enacted by Chapter 371, 2017 General Session

**67-4a-803 Expenses and service charges of administrator.**

Before making a deposit of funds received under this chapter to the Uniform School Fund or the Crime Victim Reparations Fund, the administrator may deduct:

- (1) expenses of disposition of property delivered to the administrator under this chapter;
- (2) costs of mailing and publication in connection with property delivered to the administrator under this chapter;
- (3) reasonable service charges; and
- (4) expenses incurred in examining records of or collecting property from a putative holder or holder.

Enacted by Chapter 371, 2017 General Session

**67-4a-804 Administrator holds property as custodian for owner.**

Property received by the administrator under this chapter is held in custody for the benefit of the owner and is not owned by the state.

Enacted by Chapter 371, 2017 General Session

## **Part 9**

### **Claim to Recover Property from Administrator**

**67-4a-901 Claim of another state to recover property.**

- (1) If the administrator knows that property held by the administrator under this chapter is subject to a superior claim of another state, the administrator shall:
  - (a) report and pay or deliver the property to the other state; or
  - (b) return the property to the holder so that the holder may pay or deliver the property to the other state.
- (2) The administrator is not required to enter into an agreement to transfer property to the other state under Subsection (1).

Repealed and Re-enacted by Chapter 371, 2017 General Session

**67-4a-902 When property subject to recovery by another state.**

- (1) Property held under this chapter by the administrator is subject to the right of another state to take custody of the property if:
  - (a)
    - (i) the property was paid or delivered to the administrator because the records of the holder did not reflect a last known address in the other state of the apparent owner; and
    - (ii)
      - (A) the other state establishes that the last known address of the apparent owner or other person entitled to the property was in the other state; or
      - (B) under the law of the other state, the property has become subject to a claim by the other state of abandonment;
  - (b) the records of the holder did not accurately identify the owner of the property, the last known address of the owner was in another state, and, under the law of the other state, the property has become subject to a claim by the other state of abandonment;
  - (c) the property was subject to the custody of the administrator of this state under Section 67-4a-305 and, under the law of the state of domicile of the holder, the property has become subject to a claim by the state of domicile of the holder of abandonment; or
  - (d) the property:
    - (i) is a sum payable on a traveler's check, money order, or similar instrument that was purchased in the other state and delivered to the administrator under Section 67-4a-306; and
    - (ii) under the law of the other state, has become subject to a claim by the other state of abandonment.
- (2) A claim by another state to recover property under this section shall be presented in a form prescribed by the administrator, unless the administrator waives presentation of the form.
- (3)
  - (a) The administrator shall decide a claim under this section not later than 90 days after it is presented.
  - (b) If the administrator determines that the other state is entitled under Subsection (1) to custody of the property, the administrator shall allow the claim and pay or deliver the property to the other state.
- (4) The administrator may require another state, before recovering property under this section, to agree to indemnify this state and its agents, officers, and employees against any liability on a claim to the property.

Repealed and Re-enacted by Chapter 371, 2017 General Session

**67-4a-903 Claim for property by person claiming to be owner.**

- (1)
  - (a) A person claiming to be the owner of property held under this chapter by the administrator may file a claim for the property on a form prescribed by the administrator.
  - (b) The claimant shall verify the claim as to its completeness and accuracy.
- (2) If the owner claiming the unclaimed property is a creditor the following apply:
  - (a)
    - (i) the exclusive remedy for satisfying a creditor's judgement is payment of a claim under the act; and
    - (ii) a writ of attachment, garnishment, or execution is prohibited on unclaimed property;
  - (b) a creditor may only receive the value of the creditor's judgment or the amount held by the administrator, whichever is less; and
  - (c) the administrator may waive the requirement in Subsection (1) and may pay or deliver property directly to a person if:
    - (i) the person receiving the property or payment is shown to be the apparent owner included on a report filed under Section 67-4a-401;
    - (ii) the administrator reasonably believes the person is entitled to receive the property or payment; and
    - (iii) the property has a value of less than \$500.

Enacted by Chapter 371, 2017 General Session

**67-4a-904 When administrator shall honor claim for property.**

- (1) The administrator shall pay or deliver property to a claimant under Subsection 67-4a-903(1) if the administrator receives evidence sufficient to establish to the satisfaction of the administrator that the claimant is the owner of the property.
- (2) Not later than 90 days after a claim is filed under Subsection 67-4a-903(1), the administrator shall allow or deny the claim and give the claimant notice in a record of the decision.
- (3) If the claim is denied under Subsection (2):
  - (a) the administrator shall inform the claimant of the reason for the denial and specify what additional evidence, if any, is required for the claim to be allowed;
  - (b) the claimant may file an amended claim with the administrator or commence an action under Section 67-4a-906; and
  - (c) the administrator shall consider an amended claim filed under Subsection (3)(b) as an initial claim.
- (4) If the administrator does not take action on a claim during the 90-day period following the filing of a claim under Subsection 67-4a-903(1), the claim is considered denied.

Enacted by Chapter 371, 2017 General Session

**67-4a-905 Allowance of claim for property.**

- (1)
  - (a) The administrator shall pay or deliver to the owner the property or pay to the owner the net proceeds of a sale of the property together with income or gain to which the owner is entitled under Section 67-4a-607.
  - (b) On request of the owner, the administrator may sell or liquidate a security and pay the net proceeds to the owner.
- (2) Property held under this chapter by the administrator is subject to a claim for the payment of an enforceable debt the owner owes in this state for:

- (a) child support arrearages, including child support collection costs and child support arrearages that are combined with maintenance;
  - (b) a civil or criminal fine or penalty, court costs, a surcharge, or restitution imposed by a final order of an administrative agency or a final court judgment; or
  - (c) state taxes, penalties, and interest that have been determined to be delinquent or as to which notice has been recorded with the State Tax Commission.
- (3)
- (a) Before delivery or payment to an owner under Subsection (1) of property or payment to the owner of net proceeds of a sale of the property, the administrator first shall apply the property or net proceeds to a debt under Subsection (2) the administrator determines is owed by the owner.
  - (b) The administrator shall pay the amount to the appropriate state agency and notify the owner of the payment.
- (4)
- (a) The administrator may make periodic inquiries of state agencies in the absence of a claim filed under Section 67-4a-903 to determine whether an apparent owner included in the unclaimed property records of this state has enforceable debts described in Subsection (2).
  - (b) The administrator first shall apply the property or net proceeds of a sale of property held by the administrator to a debt under Subsection (2) of an apparent owner that appears in the records of the administrator and deliver the amount to the appropriate state agency.
  - (c) The administrator shall notify the apparent owner of the payment.

Enacted by Chapter 371, 2017 General Session

**67-4a-906 Action by person whose claim is denied.**

Not later than one year after filing a claim under Subsection 67-4a-903(1), the claimant may commence an action against the administrator in the district court to establish a claim that has been denied or considered denied under Subsection 67-4a-904(2).

Enacted by Chapter 371, 2017 General Session

## **Part 10**

### **Verified Report of Property and Examination of Records**

**67-4a-1001 Verified report of property.**

- (1) If a person does not file a report required by Section 67-4a-401 or the administrator believes that a person may have filed an inaccurate, incomplete, or false report, the administrator may require the person to file a verified report in a form prescribed by the administrator.
- (2) The verified report under Subsection (1) shall:
  - (a) state whether the person is holding property reportable under this chapter;
  - (b) describe property not previously reported or about which the administrator has inquired;
  - (c) specifically identify property described under Subsection (2)(b) about which there is a dispute whether it is reportable under this chapter; and
  - (d) state the amount or value of the property.

Enacted by Chapter 371, 2017 General Session

**67-4a-1002 Examination of records to determine compliance.**

The administrator, at reasonable times and on reasonable notice, may:

- (1) examine the records of a person, including examination of appropriate records in the possession of an agent of the person under examination, if the records are reasonably necessary to determine whether the person has complied with this chapter;
- (2) issue an administrative subpoena requiring the person or agent of the person to make records available for examination; and
- (3) bring an action seeking judicial enforcement of the subpoena.

Enacted by Chapter 371, 2017 General Session

**67-4a-1003 Rules for conducting examination.**

- (1)
  - (a) The administrator may adopt rules governing procedures and standards for an examination under Section 67-4a-1002.
  - (b) The rules may reference any standards concerning unclaimed property examinations promulgated by the National Association of Unclaimed Property Administrators.
- (2) An examination under Section 67-4a-1002 shall be performed under rules adopted under Subsection (1).
- (3) If a person subject to examination under Section 67-4a-1002 has filed the reports required under Section 67-4a-401 and Section 67-4a-1001 and has retained the records required by Section 67-4a-404, the following rules apply:
  - (a) the examination shall include a review of the person's records;
  - (b) the examination may not be based on an estimate unless the person expressly consents in a record to the use of an estimate; and
  - (c) the person conducting the examination shall consider the evidence presented in good faith by the person in preparing the findings of the examination under Section 67-4a-1007.

Enacted by Chapter 371, 2017 General Session

**67-4a-1004 Records obtained in examination.**

Records obtained and records, including work papers, compiled by the administrator in the course of conducting an examination under Section 67-4a-1002:

- (1) are subject to the confidentiality and security provisions of Part 14, Confidentiality and Security of Information, and are not public records;
- (2) may be used by the administrator in an action to collect property or otherwise enforce this chapter;
- (3) may be used in a joint examination conducted with another state, the United States, a foreign country or subordinate unit of a foreign country, or any other governmental entity if the governmental entity conducting the examination is legally bound to maintain the confidentiality and security of information obtained from a person subject to examination in a manner substantially equivalent to Part 14, Confidentiality and Security of Information;
- (4) shall be disclosed, on request, to the person that administers the unclaimed property law of another state for that state's use in circumstances equivalent to circumstances described in this part, if the other state is required to maintain the confidentiality and security of information obtained in a manner substantially equivalent to Part 14, Confidentiality and Security of Information;

- (5) shall be produced by the administrator under an administrative or judicial subpoena or administrative or court order; and
- (6) shall be produced by the administrator on request of the person subject to the examination in an administrative or judicial proceeding relating to the property.

Enacted by Chapter 371, 2017 General Session

**67-4a-1005 Evidence of unpaid debt or undischarged obligation.**

- (1) A record of a putative holder showing an unpaid debt or undischarged obligation is prima facie evidence of the debt or obligation.
- (2) A putative holder may establish by a preponderance of the evidence that there is no unpaid debt or undischarged obligation for a debt or obligation described in Subsection (1) or that the debt or obligation was not, or no longer is, a fixed and certain obligation of the putative holder.
- (3) A putative holder may overcome prima facie evidence under Subsection (1) by establishing by a preponderance of the evidence that a check, draft, or similar instrument was:
  - (a) issued as an unaccepted offer in settlement of an unliquidated amount;
  - (b) issued but later was replaced with another instrument because the earlier instrument was lost or contained an error that was corrected;
  - (c) issued to a party affiliated with the issuer;
  - (d) paid, satisfied, or discharged;
  - (e) issued in error;
  - (f) issued without consideration;
  - (g) issued but there was a failure of consideration;
  - (h) voided within a reasonable time after issuance for a valid business reason set forth in a contemporaneous record; or
  - (i) issued but not delivered to the third-party payee for a sufficient reason recorded within a reasonable time after issuance.
- (4) In asserting a defense under this section, a putative holder may present evidence of a course of dealing between the putative holder and the apparent owner or of custom and practice.

Enacted by Chapter 371, 2017 General Session

**67-4a-1006 Failure of person examined to retain records.**

- (1) If a person subject to examination under Section 67-4a-1002 does not retain the records required by Section 67-4a-404, the administrator may determine the value of property due using a reasonable method of estimation based on all information available to the administrator, including extrapolation and use of statistical sampling when appropriate and necessary, consistent with examination procedures and standards adopted under Subsection 67-4a-1003(1) and in accordance with Subsection 67-4a-1003(2).
- (2) A payment made based on estimation under this section is a penalty for failure to maintain the records required by Section 67-4a-404 and does not relieve a person from an obligation to report and deliver property to a state in which the holder is domiciled.

Enacted by Chapter 371, 2017 General Session

**67-4a-1007 Report to person whose records were examined.**



At the conclusion of an examination under Section 67-4a-1002, unless waived in writing by the person being examined, the administrator shall provide to the person whose records were examined a report that specifies:

- (1) the work performed;
- (2) the property types reviewed;
- (3) the methodology of any estimation technique, extrapolation, or statistical sampling used in conducting the examination;
- (4) each calculation showing the value of property determined to be due; and
- (5) the findings of the person conducting the examination.

Enacted by Chapter 371, 2017 General Session

**67-4a-1008 Informal conference.**

- (1) If a person subject to examination under Section 67-4a-1002 believes the person conducting the examination has made an unreasonable or unauthorized request or is not proceeding expeditiously to complete the examination, the person in a record may request an informal conference with the administrator.
- (2)
  - (a) If a person in a record requests an informal conference with the administrator, the administrator shall hold the informal conference not later than 30 days after receiving the request.
  - (b) For good cause, and after notice in a record to the person requesting an informal conference, the administrator may extend the time for the holding of an informal conference.
  - (c) The administrator may hold the informal conference in person, by telephone, or by electronic means.
- (3) If an informal conference is held under Subsection (2), not later than 30 days after the conference ends, the administrator shall provide a response to the person that requested the conference.
- (4)
  - (a) The administrator may deny a request for an informal conference under this section if the administrator reasonably believes that the request was made in bad faith or primarily to delay the examination.
  - (b) If the administrator denies a request for an informal conference, the denial shall be in a record provided to the person requesting the informal conference.

Enacted by Chapter 371, 2017 General Session

**67-4a-1009 Administrator's contract with another to conduct examination.**

- (1) The administrator may contract with a person to conduct an examination under this chapter.
- (2) If the administrator contracts with a person under Subsection (1):
  - (a) the contract may provide for compensation of the person based on a fixed fee, hourly fee, or contingent fee; and
  - (b) a contingent fee arrangement may not provide for a payment that exceeds 15% of the amount or value of property paid or delivered as a result of the examination.
- (3) A contract under Subsection (1) is a public record under Section 63G-2-301.

Enacted by Chapter 371, 2017 General Session

**67-4a-1010 Report by administrator to state official.**

- (1) Not later than three months after the end of the fiscal year, the administrator shall compile and submit a report to the treasurer, president of the Senate, and speaker of the House.
- (2) The report shall contain the following information about property presumed abandoned for the preceding fiscal year for the state:
  - (a) the total amount and value of all property paid or delivered under this chapter to the administrator, separated into:
    - (i) the part voluntarily paid or delivered; and
    - (ii) the part paid or delivered as a result of an examination under Section 67-4a-1002;
  - (b) the total amount and value of all property paid or delivered by the administrator to persons that made claims for property held by the administrator;
  - (c) the total amount expended to provide notice to apparent owners under Section 67-4a-503; and
  - (d) other information the administrator believes would be useful or informative.

Enacted by Chapter 371, 2017 General Session

**67-4a-1011 Determination of liability for unreported reportable property.**

If the administrator determines from an examination conducted under Section 67-4a-1002 that a putative holder failed or refused to pay or deliver to the administrator property that is reportable under this chapter, the administrator shall issue a determination of the putative holder's liability to pay or deliver and give notice in a record to the putative holder of the determination.

Enacted by Chapter 371, 2017 General Session

**Part 11**  
**Determination of Liability and Putative Holder Remedies**

**67-4a-1101 Informal conference.**

- (1)
  - (a) Not later than 30 days after receipt of a notice under Section 67-4a-1011, the putative holder may request an informal conference with the administrator to review the determination.
  - (b) Except as otherwise provided in this section, the administrator may designate an employee to act on behalf of the administrator.
- (2) If a putative holder makes a timely request under Subsection (1) for an informal conference:
  - (a) not later than 20 days after the date of the request, the administrator shall set the time and place of the conference;
  - (b) the administrator shall give the putative holder notice in a record of the time and place of the conference;
  - (c) the conference may be held in person, by telephone, or by electronic means, as determined by the administrator;
  - (d) the request tolls the 90-day period under Sections 67-4a-1103 and 67-4a-1104 until notice of a decision under Subsection (2)(g) has been given to the putative holder or the putative holder withdraws the request for the conference;
  - (e) the conference may be postponed, adjourned, and reconvened as the administrator determines appropriate;

- (f) the administrator or the administrator's designee with the approval of the administrator may modify a determination made under Section 67-4a-1011 or withdraw it; and
  - (g) the administrator shall issue a decision in a record and provide a copy of the record to the putative holder and examiner not later than 20 days after the conference ends.
- (3)
- (a) A conference under Subsection (2) is not an administrative remedy and is not a contested case subject to the state administrative procedure act.
  - (b) An oath is not required and rules of evidence do not apply in the conference.
- (4) At a conference under Subsection (2), the putative holder shall be given an opportunity to confer informally with the administrator and the person that examined the records of the putative holder to:
- (a) discuss the determination made under Section 67-4a-1011; and
  - (b) present any issue concerning the validity of the determination.
- (5) If the administrator fails to act within the period prescribed in Subsection (2)(a) or (g), the failure does not affect a right of the administrator, except that interest does not accrue on the amount for which the putative holder was determined to be liable under Section 67-4a-1011 during the period in which the administrator failed to act until the earlier of:
- (a) the date under Section 67-4a-1103 the putative holder initiates administrative review or files an action under Section 67-4a-1104; or
  - (b) 90 days after the putative holder received notice of the administrator's determination under Section 67-4a-1011 if no review was initiated under Section 67-4a-1103 and no action was filed under Section 67-4a-1104.
- (6) The administrator may hold an informal conference with a putative holder about a determination under Section 67-4a-1011 without a request at any time before the putative holder initiates administrative review under Section 67-4a-1103 or files an action under Section 67-4a-1104.
- (7) Interest and penalties under Section 67-4a-1204 continue to accrue on property not reported, paid, or delivered as required by this chapter after the initiation, and during the pendency, of an informal conference under this section.

Enacted by Chapter 371, 2017 General Session

**67-4a-1102 Review of administrator's determination.**

A putative holder may seek relief from a determination under Section 67-4a-1011 by:

- (1) administrative review under Section 67-4a-1103; or
- (2) judicial review under Section 67-4a-1104.

Enacted by Chapter 371, 2017 General Session

**67-4a-1103 Administrative review.**

- (1) Not later than 30 days after receiving notice of the administrator's determination under Section 67-4a-1011, a putative holder may initiate a proceeding under Section 63G-4-301 for review of the administrator's determination.
- (2) A final decision in an administrative proceeding initiated under Subsection (1) is subject to judicial review by the district court as a matter of right in a de novo proceeding on the record in which either party is entitled to introduce evidence as a supplement to the record.

Enacted by Chapter 371, 2017 General Session

**67-4a-1104 Judicial remedy.**

- (1) Not later than 90 days after receiving notice of the administrator's determination under Section 67-4a-1011, the putative holder may:
  - (a) file an action against the administrator in the district court challenging the administrator's determination of liability and seeking a declaration that the determination is unenforceable, in whole or in part; or
  - (b) pay the amount or deliver the property determined by the administrator to be paid or delivered to the administrator and, not later than six months after payment or delivery, file an action against the administrator in the district court for a refund of all or part of the amount paid or return of all or part of the property delivered.
- (2) If a putative holder pays or delivers property the administrator determined shall be paid or delivered to the administrator at any time after the putative holder files an action under Subsection (1)(a), the court shall continue the action as if the action had been filed originally as an action for a refund or return of property under Subsection (1)(b).
- (3) On the final determination of an action filed under Subsection (1), the court may, on application, award to the prevailing party the prevailing party's reasonable attorney fees, costs, and expenses of litigation.
- (4) A putative holder that is the prevailing party in an action under this section for refund of money paid to the administrator is entitled to interest on the amount refunded, at the same rate a holder is required to pay to the administrator under Subsection 67-4a-1204(1), from the date paid to the administrator until the date of the refund.

Enacted by Chapter 371, 2017 General Session

**Part 12**  
**Enforcement by Administrator**

**67-4a-1201 Judicial action to enforce liability.**

- (1)
  - (a) If a determination under Section 67-4a-1011 becomes final and is not subject to administrative or judicial review, the administrator may commence an action in the district court or in a district court of another state to enforce the determination and secure payment or delivery of past due, unpaid, or undelivered property.
  - (b) The action shall be brought not later than one year after the determination becomes final.
- (2) In an action under Subsection (1), if no court in this state has jurisdiction over the defendant, the administrator may commence an action in any court having jurisdiction over the defendant.

Enacted by Chapter 371, 2017 General Session

**67-4a-1202 Interstate and international agreement -- Cooperation.**

- (1) Subject to Subsection (2), the administrator may:
  - (a) exchange information with another state or foreign country relating to property presumed abandoned or relating to the possible existence of property presumed abandoned; and
  - (b) authorize in a record another state or foreign country or a person acting on behalf of the other state or foreign country to examine the other state or foreign country's records of a putative holder as provided in Part 10, Verified Report of Property and Examination of Records.

- (2) An exchange or examination under Subsection (1) may be done only if the state or foreign country has confidentiality and security requirements substantially equivalent to those in Part 14, Confidentiality and Security of Information, or agrees in a record to be bound by this state's confidentiality and security requirements.

Enacted by Chapter 371, 2017 General Session

**67-4a-1203 Action involving another state or foreign country.**

- (1) The administrator may join another state or foreign country to examine and seek enforcement of this chapter against a putative holder.
- (2) On request of another state or foreign country, the attorney general may commence an action on behalf of the other state or foreign country to enforce, in this state, the law of the other state or foreign country against a putative holder subject to a claim by the other state or foreign country, if the other state or foreign country agrees to pay costs incurred by the attorney general in the action.
- (3)
  - (a) The administrator may request the official authorized to enforce the unclaimed property law of another state or foreign country to commence an action to recover property in the other state or foreign country on behalf of the administrator.
  - (b) This state shall pay the costs, including reasonable attorney fees and expenses, incurred by the other state or foreign country in an action under this Subsection (3).
- (4) The administrator may pursue an action on behalf of this state to recover property subject to this chapter but delivered to the custody of another state if the administrator believes the property is subject to the custody of the administrator.
- (5) The attorney general may retain an attorney for the administrator in this state, another state, or a foreign country to commence an action to recover property on behalf of the administrator and may agree to pay attorney fees based in whole or in part on a fixed fee, an hourly fee, or a percentage of the amount or value of property recovered in the action.
- (6)
  - (a) Expenses incurred by this state in an action under this section may be paid from property received under this chapter or the net proceeds of the property.
  - (b) Expenses paid to recover property may not be deducted from the amount that is subject to a claim under this chapter by the owner.

Enacted by Chapter 371, 2017 General Session

**67-4a-1204 Interest and penalty for failure to act in timely manner.**

- (1) A holder that fails to report, pay, or deliver property within the time prescribed by this chapter shall pay to the administrator interest at an annual rate calculated based on the federal short-term rate determined by the secretary of the treasury under Section 6621, Internal Revenue Code, in effect for the preceding fourth calendar quarter plus four percentage points on the property or value of the property from the date the property should have been reported, paid, or delivered to the administrator until the date reported, paid, or delivered.
- (2) Except as otherwise provided in Section 67-4a-1205 or 67-4a-1206, the administrator may require a holder that fails to report, pay, or deliver property within the time prescribed by this chapter to pay to the administrator, in addition to interest included under Subsection (1), a civil penalty of \$200 for each day the duty is not performed, up to a cumulative maximum amount of \$5,000.

Enacted by Chapter 371, 2017 General Session

**67-4a-1205 Other civil penalties.**

- (1) If a holder enters into a contract or other arrangement for the purpose of evading an obligation under this chapter or otherwise willfully fails to perform a duty imposed on the holder under this chapter, the administrator may require the holder to pay the administrator, in addition to interest as provided in Subsection 67-4a-1204(1), a civil penalty of \$1,000 for each day the obligation is evaded or the duty is not performed, up to a cumulative maximum amount of \$25,000, plus 25% of the amount or value of property that should have been but was not reported, paid, or delivered as a result of the evasion or failure to perform.
- (2) If a holder makes a fraudulent report under this chapter, the administrator may require the holder to pay to the administrator, in addition to interest under Subsection 67-4a-1204(1), a civil penalty of \$1,000 for each day from the date the report was made until corrected, up to a cumulative maximum of \$25,000, plus 25% of the amount or value of any property that should have been reported but was not included in the report or was under reported.

Enacted by Chapter 371, 2017 General Session

**67-4a-1206 Waiver of interest and penalty.**

The administrator:

- (1) may waive, in whole or in part, interest under Subsection 67-4a-1204(1) and penalties under Subsection 67-4a-1204(2) or Section 67-4a-1205; and
- (2) may waive a penalty under Subsection 67-4a-1204(2) if the administrator determines that the holder acted in good faith and without negligence.

Enacted by Chapter 371, 2017 General Session

**Part 13**

**Agreement to Locate Property of Apparent Owner Held by Administrator**

**67-4a-1301 When agreement to locate property enforceable.**

An agreement by an apparent owner and another person, the primary purpose of which is to locate, deliver, recover, or assist in the location, delivery, or recovery of property held by the administrator, is enforceable only if the agreement:

- (1) is in a record that clearly states the nature of the property and the services to be provided;
- (2) is signed by or on behalf of the apparent owner; and
- (3) states the amount or value of the property reasonably expected to be recovered, computed before and after a fee or other compensation to be paid to the person has been deducted.

Enacted by Chapter 371, 2017 General Session

**67-4a-1302 When agreement to locate property void.**

- (1) Subject to Subsection (2), an agreement under Section 67-4a-1301 is void if the agreement is entered into during the period beginning on the date the property was paid or delivered by a holder to the administrator and ending 24 months after the payment or delivery.

- (2) If a provision in an agreement described in Subsection (1) applies to mineral proceeds for which compensation is to be paid to the other person based in whole or in part on a part of the underlying minerals or mineral proceeds not then presumed abandoned, the provision is void regardless of when the agreement was entered into.
- (3)
- (a) An agreement under Subsection (1) that provides for compensation in an amount that is unconscionable is unenforceable except by the apparent owner.
  - (b) An apparent owner that believes the compensation the apparent owner has agreed to pay is unconscionable or the administrator, acting on behalf of an apparent owner, or both, may file an action in the district court to reduce the compensation to the maximum amount that is not unconscionable.
  - (c) On the final determination of an action filed under this Subsection (3), the court may, on application, award the prevailing party the prevailing party's reasonable attorney fees, costs, and expenses of litigation.
- (4) An apparent owner or the administrator may assert that an agreement described in this section is void on a ground other than it provides for payment of unconscionable compensation.
- (5) This section does not apply to an apparent owner's agreement with an attorney to pursue a claim for recovery of specifically identified property held by the administrator or to contest the administrator's denial of a claim for recovery of the property.

Enacted by Chapter 371, 2017 General Session

**67-4a-1303 Right of agent of apparent owner to recover property held by administrator.**

- (1)
- (a) An apparent owner that contracts with another person to locate, deliver, recover, or assist in the location, delivery, or recovery of property of the apparent owner that is held by the administrator may designate the person as the agent of the apparent owner.
  - (b) The designation under Subsection (1)(a) shall be in a record signed by the apparent owner.
- (2) The administrator shall give the agent of the apparent owner all information concerning the property that the apparent owner is entitled to receive, including information that otherwise is confidential information under Section 67-4a-1402.
- (3) If authorized by the apparent owner, the agent of the apparent owner may bring an action against the administrator on behalf of and in the name of the apparent owner.

Enacted by Chapter 371, 2017 General Session

**Part 14**  
**Confidentiality and Security of Information**

**67-4a-1401 Definitions -- Applicability.**

- (1) As used in this part, "personal information" means:
- (a) information that identifies or reasonably can be used to identify an individual, such as first and last name in combination with the individual's:
    - (i) social security number or other government-issued number or identifier;
    - (ii) date of birth;
    - (iii) home or physical address;

- (iv) electronic mail address or other online contact information or Internet provider address;
  - (v) financial account number or credit or debit card number;
  - (vi) biometric data, health or medical data, or insurance information; or
  - (vii) passwords or other credentials that permit access to an online or other account;
  - (b) personally identifiable financial or insurance information, including nonpublic personal information defined by applicable federal law; and
  - (c) any combination of data that, if accessed, disclosed, modified, or destroyed without authorization of the owner of the data, or if lost or misused, would require notice or reporting under Section 13-44-202 and federal privacy and data security law, regardless of whether the administrator or the administrator's agent is subject to the law.
- (2) A provision of this part that applies to the administrator or the administrator's records applies to an administrator's agent.

Enacted by Chapter 371, 2017 General Session

**67-4a-1402 Confidential information.**

- (1) Except as otherwise provided in this chapter, the following are confidential and exempt from public inspection or disclosure:
- (a) records of the administrator and the administrator's agent related to the administration of this chapter;
  - (b) reports and records of a holder in the possession of the administrator or the administrator's agent; and
  - (c) personal information and other information derived or otherwise obtained by or communicated to the administrator or the administrator's agent from an examination under this chapter of the records of a person.
- (2) A record or other information that is confidential under the law of this state other than in this chapter, another state, or the United States continues to be confidential when disclosed or delivered under this chapter to the administrator or the administrator's agent.

Enacted by Chapter 371, 2017 General Session

**67-4a-1403 When confidential information may be disclosed.**

- (1) When reasonably necessary to enforce or implement this chapter, the administrator may disclose confidential information concerning property held by the administrator or the administrator's agent only to:
- (a) an apparent owner or the apparent owner's personal representative, attorney, other legal representative, relative, or agent designated under Section 67-4a-1303 to have the information;
  - (b) the personal representative, other legal representative, relative of a deceased apparent owner, agent designated under Section 67-4a-1303 by the deceased apparent owner, or person entitled to inherit from the deceased apparent owner;
  - (c) another department or agency of this state or of the United States;
  - (d) the person that administers the unclaimed property law of another state, if the other state accords substantially reciprocal privileges to the administrator of this state if the other state is required to maintain the confidentiality and security of information obtained in a manner substantially equivalent to Part 14, Confidentiality and Security of Information; or
  - (e) a person subject to an examination as required by Subsection 67-4a-1004(6).
- (2)



- (a) Except as otherwise provided in Subsection 67-4a-1402(1), the administrator shall include on the website or in the database required by Subsection 67-4a-503(4)(a) the name of each apparent owner of property held by the administrator.
- (b) The administrator may include in published notices, printed publications, telecommunications, the Internet, other media, on the website, or in the database additional information concerning the apparent owner's property if the administrator believes the information will assist in identifying and returning property to the owner and does not disclose personal information except the home or physical address of an apparent owner.
- (3) The administrator and the administrator's agent may not use confidential information provided to the administrator or the administrator's agent or in the administrator or the administrator's agent's possession except as expressly authorized by this chapter or required by law other than in this chapter.

Enacted by Chapter 371, 2017 General Session

**67-4a-1404 Confidentiality agreement.**

A person to be examined under Section 67-4a-1002 may require, as a condition of disclosure of the records of the person to be examined, that each person having access to the records disclosed in the examination execute and deliver to the person to be examined a confidentiality agreement that:

- (1) is in a form that is reasonably satisfactory to the administrator; and
- (2) requires the person having access to the records to comply with the provisions of this part applicable to the person.

Enacted by Chapter 371, 2017 General Session

**67-4a-1405 No confidential information in notice.**

Except as otherwise provided in Sections 67-4a-501 and 67-4a-502, a holder is not required under this chapter to include confidential information in a notice the holder is required to provide to an apparent owner under this chapter.

Enacted by Chapter 371, 2017 General Session

**67-4a-1406 Security of information.**

- (1) If a holder is required to include confidential information in a report to the administrator, the information shall be provided by a secure means.
- (2) If confidential information in a record is provided to and maintained by the administrator or the administrator's agent as required by this chapter, the administrator or the administrator's agent shall:
  - (a) implement administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of the information required by Section 13-44-202 and federal privacy and data security law regardless of whether the administrator or the administrator's agent is subject to the law;
  - (b) protect against reasonably anticipated threats or hazards to the security, confidentiality, or integrity of the information; and
  - (c) protect against unauthorized access to or use of the information that could result in substantial harm or inconvenience to a holder or the holder's customers, including insureds,

annuitants, and policy or contract owners and the insureds', annuitants', and policy or contract owners' beneficiaries.

(3) The administrator:

- (a) after notice and comment, shall adopt and implement a security plan that identifies and assesses reasonably foreseeable internal and external risks to confidential information in the administrator's possession and seeks to mitigate the risks; and
  - (b) shall ensure that an administrator's agent adopts and implements a similar plan with respect to confidential information in the administrator's agent's possession.
- (4) The administrator and the administrator's agent shall educate and train the administrator's and the administrator's agent's employees regarding the plan adopted under Subsection (3).
- (5) The administrator and the administrator's agent shall in a secure manner return or destroy all confidential information no longer reasonably needed under this chapter.

Enacted by Chapter 371, 2017 General Session

**67-4a-1407 Security breach.**

- (1) Except to the extent prohibited by law other than in this chapter, the administrator or the administrator's agent shall notify a holder as soon as practicable of:
- (a) a suspected loss, misuse, unauthorized access, disclosure, modification, or destruction of confidential information obtained from the holder in the possession of the administrator or the administrator's agent; and
  - (b) any interference with operations in any system hosting or housing confidential information that:
    - (i) compromises the security, confidentiality, or integrity of the information; or
    - (ii) creates a substantial risk of identity fraud or theft.
- (2) Except as necessary to inform an insurer, attorney, investigator, or others as required by law, the administrator and the administrator's agent may not disclose, without the express consent in a record of the holder, an event described in Subsection (1) to a person whose confidential information was supplied by the holder.
- (3) If an event described in Subsection (1) occurs, the administrator and the administrator's agent shall:
- (a) take action necessary for the holder to understand and minimize the effect of the event and determine the event's scope; and
  - (b) cooperate with the holder with respect to:
    - (i) any notification required by law concerning a data or other security breach; and
    - (ii) a regulatory inquiry, litigation, or similar action.

Enacted by Chapter 371, 2017 General Session

**67-4a-1408 Indemnification for breach.**

- (1) If a claim is made or action commenced arising out of an event described in Subsection 67-4a-1407(1) relating to confidential information possessed by the administrator, this state shall indemnify, defend, and hold harmless a holder and the holder's affiliates, officers, directors, employees, and agents as to:
- (a) any claim or action; and
  - (b) a liability, obligation, loss, damage, cost, fee, penalty, fine, settlement, charge, or other expense, including reasonable attorney fees and costs, established by the claim or action.

- (2) If a claim is made or action commenced arising out of an event described in Subsection 67-4a-1407(1) relating to confidential information possessed by an administrator's agent, the administrator's agent shall indemnify, defend, and hold harmless a holder and the holder's affiliates, officers, directors, employees, and agents as to:
  - (a) any claim or action; and
  - (b) a liability, obligation, loss, damage, cost, fee, penalty, fine, settlement, charge, or other expense, including reasonable attorney fees and costs, established by the claim or action.
- (3) The administrator shall require the administrator's agent that will receive confidential information required under this chapter to maintain adequate insurance for indemnification obligations of the administrator's agent under Subsection (2).
- (4) The agent required to maintain the insurance shall provide evidence of the insurance to:
  - (a) the administrator not less frequently than annually; and
  - (b) the holder on commencement of an examination and annually thereafter until all confidential information is returned or destroyed under Subsection 67-4a-1406(5).

Enacted by Chapter 371, 2017 General Session

## **Part 15**

### **Miscellaneous Provisions**

#### **67-4a-1501 Uniformity of application and construction.**

In applying and construing this uniform chapter, consideration shall be given to the need to promote uniformity of the law with respect to the chapter's subject matter among states that enact it.

Enacted by Chapter 371, 2017 General Session

#### **67-4a-1502 Relation to Electronic Signatures in Global and National Commerce Act.**

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., except this chapter does not:

- (1) modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c); or
- (2) authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

Enacted by Chapter 371, 2017 General Session

#### **67-4a-1503 Transitional provision.**

- (1) An initial report filed under this chapter for property that was not required to be reported before May 9, 2017, but that is required to be reported under this chapter, shall include all items of property that would have been presumed abandoned during the 10-year period preceding May 9, 2017, as if this chapter had been in effect during that period.
- (2) This chapter does not relieve a holder of a duty that arose before May 9, 2017, to report, pay, or deliver property.
- (3) Subject to Subsections 67-4a-610(2) and (3), a holder that did not comply with the law governing unclaimed property before May 9, 2017, is subject to applicable provisions for enforcement and penalties in effect before May 9, 2017.

Enacted by Chapter 371, 2017 General Session

**67-4a-1504 Severability.**

If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Enacted by Chapter 371, 2017 General Session

## **Chapter 5 Attorney General**

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

- (1) The attorney general shall:
- (a) perform all duties in a manner consistent with the attorney-client relationship under Section 67-5-17;
  - (b) except as provided in Sections 10-3-928 and 17-18a-403, attend the Supreme Court and the Court of Appeals of this state, and all courts of the United States, and prosecute or defend all causes to which the state or any officer, board, or commission of the state in an official capacity is a party, and take charge, as attorney, of all civil legal matters in which the state is interested;
  - (c) after judgment on any cause referred to in Subsection (1)(b), direct the issuance of process as necessary to execute the judgment;
  - (d) account for, and pay over to the proper officer, all money that comes into the attorney general's possession that belongs to the state;
  - (e) keep a file of all cases in which the attorney general is required to appear, including any documents and papers showing the court in which the cases have been instituted and tried, and whether they are civil or criminal, and:
    - (i) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to judgment, a memorandum of the judgment and of any process issued if satisfied, and if not satisfied, documentation of the return of the sheriff;
    - (ii) if criminal, the nature of the crime, the mode of prosecution, the stage of proceedings, and, when prosecuted to sentence, a memorandum of the sentence and of the execution, if the sentence has been executed, and, if not executed, the reason for the delay or prevention; and
  - (iii) deliver this information to the attorney general's successor in office;
  - (f) exercise supervisory powers over the district and county attorneys of the state in all matters pertaining to the duties of the district and county attorneys' offices, including the authority described in Subsection (2);
  - (g) give the attorney general's opinion in writing and without fee, when required, upon any question of law relating to the office of the requester:
    - (i) in accordance with Section 67-5-1.1, to the Legislature or either house;
    - (ii) to any state officer, board, or commission; and

- (iii) to any county attorney or district attorney;
- (h) when required by the public service or directed by the governor, assist any county, district, or city attorney in the discharge of county, district, or city attorney's duties;
- (i) purchase in the name of the state, under the direction of the state Board of Examiners, any property offered for sale under execution issued upon judgments in favor of or for the use of the state, and enter satisfaction in whole or in part of the judgments as the consideration of the purchases;
- (j) when the property of a judgment debtor in any judgment mentioned in Subsection (1)(i) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance taking precedence of the judgment in favor of the state, redeem the property, under the direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and pay all money necessary for the redemption, upon the order of the state Board of Examiners, out of any money appropriated for these purposes;
- (k) when in the attorney general's opinion it is necessary for the collection or enforcement of any judgment, institute and prosecute on behalf of the state any action or proceeding necessary to set aside and annul all conveyances fraudulently made by the judgment debtors, and pay the cost necessary to the prosecution, when allowed by the state Board of Examiners, out of any money not otherwise appropriated;
- (l) discharge the duties of a member of all official boards of which the attorney general is or may be made a member by the Utah Constitution or by the laws of the state, and other duties prescribed by law;
- (m) institute and prosecute proper proceedings in any court of the state or of the United States to restrain and enjoin corporations organized under the laws of this or any other state or territory from acting illegally or in excess of their corporate powers or contrary to public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations, and wind up their affairs;
- (n) institute investigations for the recovery of all real or personal property that may have escheated or should escheat to the state, and for that purpose, subpoena any persons before any of the district courts to answer inquiries and render accounts concerning any property, examine all books and papers of any corporations, and when any real or personal property is discovered that should escheat to the state, institute suit in the district court of the county where the property is situated for its recovery, and escheat that property to the state;
- (o) administer the Children's Justice Center as a program to be implemented in various counties pursuant to Sections 67-5b-101 through 67-5b-107;
- (p) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4a, Constitutional and Federalism Defense Act;
- (q) pursue any appropriate legal action to implement the state's public lands policy established in Section 63C-4a-103;
- (r) investigate and prosecute violations of all applicable state laws relating to fraud in connection with the state Medicaid program and any other medical assistance program administered by the state, including violations of Title 26B, Chapter 3, Part 11, Utah False Claims Act;
- (s) investigate and prosecute complaints of abuse, neglect, or exploitation of patients:
  - (i) in health care facilities that receive payments under the state Medicaid program;
  - (ii) in board and care facilities, as defined in the federal Social Security Act, 42 U.S.C. Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility; and
- (iii) who are receiving medical assistance under the Medicaid program as defined in Section 26B-3-101 in a noninstitutional or other setting;
- (t)

- (i) report at least twice per year to the Legislative Management Committee on any pending or anticipated lawsuits, other than eminent domain lawsuits, that might:
  - (A) cost the state more than \$500,000; or
  - (B) require the state to take legally binding action that would cost more than \$500,000 to implement; and
- (ii) if the meeting is closed, include an estimate of the state's potential financial or other legal exposure in that report;
- (u)
  - (i) submit a written report to the committees described in Subsection (1)(u)(ii) that summarizes any lawsuit or decision in which a court or the Office of the Attorney General has determined that a state statute is unconstitutional or unenforceable since the attorney general's last report under this Subsection (1)(u), including any:
    - (A) settlements reached;
    - (B) consent decrees entered;
    - (C) judgments issued;
    - (D) preliminary injunctions issued;
    - (E) temporary restraining orders issued; or
    - (F) formal or informal policies of the Office of the Attorney General to not enforce a law; and
  - (ii) at least 30 days before the Legislature's May and November interim meetings, submit the report described in Subsection (1)(u)(i) to:
    - (A) the Legislative Management Committee;
    - (B) the Judiciary Interim Committee; and
    - (C) the Law Enforcement and Criminal Justice Interim Committee;
- (v) if the attorney general operates the Office of the Attorney General or any portion of the Office of the Attorney General as an internal service fund agency in accordance with Section 67-5-4, submit to the rate committee established in Section 67-5-34:
  - (i) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and
  - (ii) any other information or analysis requested by the rate committee;
- (w) before the end of each calendar year, create an annual performance report for the Office of the Attorney General and post the report on the attorney general's website;
- (x) ensure that any training required under this chapter complies with Title 63G, Chapter 22, State Training and Certification Requirements;
- (y) notify the legislative general counsel in writing within three business days after the day on which the attorney general is officially notified of a claim, regardless of whether the claim is filed in state or federal court, that challenges:
  - (i) the constitutionality of a state statute;
  - (ii) the validity of legislation; or
  - (iii) any action of the Legislature;
- (z)
  - (i) notwithstanding Title 63G, Chapter 6a, Utah Procurement Code, provide a special advisor to the Office of the Governor and the Office of the Attorney General in matters relating to Native American and tribal issues to:
    - (A) establish outreach to the tribes and affected counties and communities; and
    - (B) foster better relations and a cooperative framework; and
  - (ii) annually report to the Criminal Justice Appropriations Subcommittee regarding:
    - (A) the status of the work of the special advisor described in Subsection (1)(z)(i); and
    - (B) whether the need remains for the ongoing appropriation to fund the special advisor described in Subsection (1)(z)(i);

- (aa)
  - (i) enforce compliance with Title 63G, Chapter 31, Distinctions on the Basis of Sex, in accordance with Section 63G-31-401; and
  - (ii) report to the Legislative Management Committee, upon request, regarding the attorney general's enforcement under this Subsection (1)(aa); and
- (bb) ensure compliance with Title 53B, Chapter 27, Part 6, Student Legal Representation, by:
  - (i) establishing a process to track the number of complaints submitted by students;
  - (ii) pursuing civil action to enforce statutory protections; and
  - (iii) no later than November 1 each year, reporting to the Judiciary Interim Committee regarding the attorney general's enforcement under this Subsection (1)(bb).
- (2)
  - (a) The attorney general may require a district attorney or county attorney of the state to, upon request, report on the status of public business entrusted to the district or county attorney's charge.
  - (b) The attorney general may review investigation results de novo and file criminal charges, if warranted, in any case involving a first degree felony, if:
    - (i) a law enforcement agency submits investigation results to the county attorney or district attorney of the jurisdiction where the incident occurred and the county attorney or district attorney:
      - (A) declines to file criminal charges; or
      - (B) fails to screen the case for criminal charges within six months after the law enforcement agency's submission of the investigation results; and
    - (ii) after consultation with the county attorney or district attorney of the jurisdiction where the incident occurred, the attorney general reasonably believes action by the attorney general would not interfere with an ongoing investigation or prosecution by the county attorney or district attorney of the jurisdiction where the incident occurred.
  - (c) If the attorney general decides to conduct a review under Subsection (2)(b), the district attorney, county attorney, and law enforcement agency shall, within 14 days after the day on which the attorney general makes a request, provide the attorney general with:
    - (i) all information relating to the investigation, including all reports, witness lists, witness statements, and other documents created or collected in relation to the investigation;
    - (ii) all recordings, photographs, and other physical or digital media created or collected in relation to the investigation;
    - (iii) access to all evidence gathered or collected in relation to the investigation; and
    - (iv) the identification of, and access to, all officers or other persons who have information relating to the investigation.
  - (d) If a district attorney, county attorney, or law enforcement agency fails to timely comply with Subsection (2)(c), the attorney general may seek a court order compelling compliance.
  - (e) If the attorney general seeks a court order under Subsection (2)(d), the court shall grant the order unless the district attorney, county attorney, or law enforcement agency shows good cause and a compelling interest for not complying with Subsection (2)(c).
- (3) The attorney general:
  - (a) is a full-time employee of the state; and
  - (b) may not engage in the private practice of law.

Amended by Chapter 271, 2025 General Session

**67-5-1.1 Written opinion to the Legislature -- Rebuttable presumption.**

- (1) When the Legislature or either house requests the attorney general's written legal opinion in accordance with Subsection 67-5-1(1)(g):
  - (a) the attorney general shall, applying concepts from the Rules of Professional Conduct contained in the Supreme Court Rules of Professional Practice, identify any potential conflicts of interest in providing the attorney general's legal opinion to the Legislature;
  - (b) if the attorney general identifies a potential conflict of interest under Subsection (1)(a), the attorney general shall, as soon as practicable after the identification:
    - (i) ensure that the attorney general's office provides each entity or individual involved in the potential conflict competent, privileged, and objective advice or representation by establishing:
      - (A) confidentiality procedures; and
      - (B) staffing divisions or other structural or administrative safeguards to screen attorneys participating in the preparation of the attorney general's opinion from participation on behalf of any other entity or individual involved in the potential conflict; and
    - (ii) provide written notice to each entity or individual involved in the potential conflict that describes the screening procedures that the attorney general establishes; and
  - (c) after complying with Subsections (1)(a) and (b), the attorney general shall provide the attorney general's opinion:
    - (i) within 30 days after the day on which the requester makes the request for the opinion; or
    - (ii) by a date upon which the attorney general and the requester agree.
- (2) There is a presumption that:
  - (a) the attorney general's reasonable compliance with Subsections (1)(a) and (b) satisfies any ethical or professional obligation arising from the potential conflict of interest; and
  - (b) with adequate screening safeguards and procedures in place, the attorney general has an attorney-client relationship with each entity or individual involved in the potential conflict of interest.
- (3)
  - (a) The attorney general shall comply in good faith with the requirement to provide the opinion in accordance with Subsection 67-5-1(1)(g) and this section.
  - (b) The attorney general may not invoke the potential conflict of interest or attorney-client privilege as grounds to withhold or refuse to provide the legal opinion required in Subsection 67-5-1(1)(g) and this section.
  - (c) The Legislature or either house may petition the Utah Supreme Court for an extraordinary writ to obtain the legal opinion if the attorney general does not provide the opinion within the time period described in Subsection (1)(c).

Amended by Chapter 222, 2022 General Session

#### **67-5-1.2 Local investigation assistance.**

The attorney general may:

- (1) assist or intervene in a local investigation only if:
  - (a) the local law enforcement agency requests assistance; or
  - (b) the county or district attorney requests assistance; and
- (2) provide Rapid DNA assistance for a local investigation in accordance with Section 53-10-403.6 upon request of and as authorized by, both the investigating agency and the county or district attorney.

Enacted by Chapter 415, 2020 General Session



**67-5-1.5 Special duties -- Employment of staff.**

- (1) The attorney general may undertake special duties and projects as follows:
  - (a) employment of child protection services investigators under Section 67-5-16;
  - (b) administration of the Internet Crimes Against Children Task Force under Section 67-5-20;
  - (c) administration of the Internet Crimes Against Children (ICAC) Unit under Section 67-5-21;
  - (d) administration of the Attorney General Crime and Violence Prevention Fund under Section 67-5-24; and
  - (e) administration of the Mortgage and Financial Fraud Unit under Section 67-5-30.
- (2) As permitted by the provisions of this chapter, the attorney general may employ or contract with investigators, prosecutors, and necessary support staff to fulfill the special duties undertaken under this section.

Amended by Chapter 303, 2022 General Session

**67-5-3 "Agency" defined -- Performance of legal services for agencies -- Billing.**

- (1) As used in this act, "agency" means a department, division, agency, commission, board, council, committee, authority, institution, other entity within the state government of Utah, or a large public transit district as defined in Section 17B-2a-802.
- (2)
  - (a) The attorney general may assign a legal assistant to perform legal services for any agency of state government.
  - (b) The attorney general shall bill that agency for the legal services performed, if:
    - (i) the agency billed receives federal funds to pay for the legal services rendered;
    - (ii) the agency collects funds from any other source in the form of fees, costs, interest, fines, penalties, forfeitures, or other proceeds reserved or designated for the payment of legal fees sufficient to pay for all or a portion of the legal services rendered; or
    - (iii) the agency is a large public transit district as defined in Section 17B-2a-802.
  - (c) An agency may deduct any unreimbursed costs and expenses incurred by the agency in connection with the legal services rendered.

Amended by Chapter 424, 2018 General Session

**67-5-4 Interaccount billings included in budget -- Payment of staff members.**

- (1) The attorney general shall include in his annual budget all interaccount billings and pay directly out of his funds all members of his staff, whether housed in his offices or not.
- (2) The attorney general may operate the Office of the Attorney General or any portion of the Office of the Attorney General as an internal service fund agency in accordance with Section 63J-1-410 for legal services that the Office of the Attorney General provides.

Amended by Chapter 120, 2016 General Session

**67-5-5 Hiring of legal counsel for agencies -- Costs.**

Except where specifically authorized by the Utah Constitution, or statutes, no agency shall hire legal counsel, and the attorney general alone shall have the sole right to hire legal counsel for each such agency. Where the Legislature has provided by statute for separate agency counsel, no such counsel may act as an assistant attorney general nor as a special assistant attorney general unless the attorney general shall so authorize. Unless the attorney general hires such legal

counsel from outside the attorney general's office, the attorney general shall remain the sole legal counsel for that agency. If outside counsel is hired for an agency, then the costs of any services to be rendered by this counsel shall be approved by the attorney general before these costs are incurred. The attorney general shall approve all billing statements from outside counsel and shall pay the full costs of this counsel unless the agency by legislative appropriation or in the form of costs, fees, fines, penalties, forfeitures or proceeds reserved or designated for the payment of legal fees receives from any other source the equivalent cost or a portion thereof, in which case the attorney general may bill the agency for the services; provided, the agency may deduct any unreimbursed costs and expenses incurred by the agency in connection with the legal service rendered.

Amended by Chapter 302, 2025 General Session

**67-5-6 Attorney General Career Service Act -- Citation.**

This act shall be known and may be cited as the "Attorney General Career Service Act."

Enacted by Chapter 185, 1973 General Session

**67-5-7 Establishment of career service system.**

- (1) The purpose of this chapter is to establish a career service system for employees of the Office of the Attorney General that will attract and retain employees of proven ability and experience who will devote their full time to the service of the state.
- (2) The Office of the Attorney General may adopt policies necessary to implement this chapter, including personnel and work policies different from those made by the Division of Human Resource Management.

Amended by Chapter 344, 2021 General Session

**67-5-8 Eligibility for career service status.**

- (1)
  - (a) The attorney general has sole authority to determine who may be employed with the Office of the Attorney General.
  - (b) An employee of the state or any of its departments or agencies has no claim or right to a position in the attorney general's office by virtue of that employment.
- (2)
  - (a) An employee of the Office of the Attorney General shall be placed in a career service status if:
    - (i) for an employee who is an attorney, the attorney is a member in good standing of the Utah State Bar Association; and
    - (ii) except as provided in Subsection (3), the employee has been employed by the Office of the Attorney General as a probationary employee for a period of:
      - (A) at least one year but no more than 18 months; or
      - (B) in the case of investigators, at least 18 months, but no more than two years.
  - (b) An employee now employed by the attorney general's office in career service may not be terminated under this chapter except for cause.
- (3)
  - (a) The attorney general shall determine whether an employee should be granted career service status.

- (b) If, at the end of the probationary period established under Subsection (2), the attorney general determines that an employee should be granted career service status, the attorney general shall notify the employee in writing of that decision and place a copy of the notification in the employee's personnel file.
- (c) If the attorney general determines that career service status should not be granted, the attorney general may either terminate the employee or extend the probationary period for a period not to exceed one year.
- (d) The attorney general shall notify the employee in writing of that decision and place a copy of the notification in the employee's personnel file.
- (e) An employee terminated under this section has no appeal rights under this chapter.

Amended by Chapter 101, 2012 General Session

**67-5-9 Reassignment of career status employees -- Additional compensation for managerial assignments -- Employment of special assistant attorneys general -- Termination of employees -- Salary increases.**

This chapter does not affect the authority of the attorney general to:

- (1) assign and reassign employees in a career status to different positions on his staff. The salary of an employee reassigned to a different position shall not be decreased by reason of reassignment; except that if the employee reassigned occupies the position of chief deputy attorney general, the salary may be reduced by not more than 15% upon the assignment to a different position;
- (2) develop a plan for additional compensation for career status employees who accept managerial assignments within the office. The provisions of Subsection (1) notwithstanding, the attorney general may discontinue any additional compensation if the employee no longer holds a managerial assignment. Additional compensation provided under this section shall be determined by the attorney general pursuant to the plan developed by the Office of the Attorney General. If the employee no longer holds a managerial assignment, and the attorney general decides to discontinue any additional compensation, the reduction may not place the employee at a salary below where the employee would be through normal salary increases if the employee had not been in a managerial position;
- (3) employ special assistant attorneys general, who shall not be subject to this chapter, to represent the state in particular lawsuits or to handle particular legal matters for the state;
- (4) terminate the employment of any employee of the Office of the Attorney General who is not in a career service status; or
- (5) establish the salary or determine salary increases of any employee under this chapter.

Amended by Chapter 166, 2007 General Session

**67-5-10 Career status attorneys as full-time employees -- Completion of outside law practice.**

- (1) Attorneys in a career status shall be full-time employees and shall not engage in the private practice of law and shall not receive any fee for legal services rendered to any person, corporation, partnership, or other legal entity other than the state or the county in which the person holds office or by whom the person is employed. The practice of law prohibited by this subsection does not include pro bono service.
- (2) Attorneys on probationary status who have not been granted career service status may, in the discretion of the attorney general, be granted permission to complete or handle legal matters

previously begun before employment with the attorney general's office, but may not begin new matters once employed. Once career service status is conferred, the attorney is bound by the provisions of Subsection (1).

- (3) The provisions of this section shall not apply to special assistant attorneys general retained on a fee basis to render services in connection with a single case or a related series of cases.

Amended by Chapter 199, 1994 General Session

**67-5-11 Employee accepting appointment to state position exempt from merit provisions -- Reinstatement in career status.**

- (1) An employee in a career status accepting appointment to a position in state government which is exempt from the merit provisions of Title 63A, Chapter 17, Utah State Personnel Management Act, shall notify the attorney general in writing. Upon termination of the appointment, unless discharged for cause, the employee, through written request of reinstatement made to the attorney general within 30 days from the effective date of termination from the appointment, shall be reinstated in a career status in the attorney general's office at a salary not less than that which he was receiving at the time of his appointment, and the time spent in the other position shall be credited toward seniority in the career service. Reinstatement shall be made no later than 60 days after the written notification required by this Subsection (1) or 60 days after the effective date of termination from the employee's appointive position, whichever is later. The position and assignment to which the employee shall return shall be determined by the attorney general.
- (2)
- (a) The Office of the Attorney General shall establish and maintain a separate seniority list for each employee category, which categories may include attorneys, investigators, paralegals, secretaries, and others.
- (b) An employee of the Office of the Attorney General with less seniority than an employee in the same category entitled to be reinstated under this section holds his position subject to any reinstatement provided by Subsection (1).

Amended by Chapter 345, 2021 General Session

**67-5-12 Dismissal of career status employees -- Causes -- Procedure -- Retention roster -- Reappointment register.**

- (1)
- (a) Employees in a career status may be dismissed only:
- (i) to advance the good of public service;
  - (ii) where funds have expired or work no longer exists; or
  - (iii) for any of the following causes or reasons:
    - (A) noncompliance with provisions in the Office of Attorney General policy manual, or division policies, and, for attorneys, noncompliance with the Rules of Professional Conduct;
    - (B) work performance that is inefficient or incompetent;
    - (C) failure to maintain skills and adequate performance levels;
    - (D) insubordination or disloyalty to the orders of a superior;
    - (E) misfeasance, malfeasance, or nonfeasance;
    - (F) failure to advance the good of the public service, including conduct on or off duty which demeans or harms the effectiveness or ability of the office to fulfill its mission or legal obligations;

- (G) conduct on or off duty which creates a conflict of interest with the employee's public responsibilities or impact that employee's ability to perform his or her job assignments;
- (H) any incident involving intimidation, physical harm, threats of physical harm against coworkers, management, or the public;
- (I) failure to meet the requirements of the position;
- (J) dishonesty; or
- (K) misconduct.
- (b) Employees in career status may not be dismissed for reasons of race, national origin, religion, or political affiliation.
- (2) Except in aggravated cases of misconduct, an employee in a career status may not be suspended, demoted, or dismissed without the following procedures:
  - (a) The attorney general or a designated representative shall notify the employee of the reasons for suspension, demotion, or dismissal.
  - (b) The employee shall have an opportunity to reply and have the reply considered by the attorney general or a designated representative.
  - (c) The employee shall have an opportunity to be heard by the attorney general or a designated representative.
  - (d) Following a hearing, an employee may be suspended, demoted, or dismissed if the attorney general or a designated representative finds adequate reason.
  - (e) If the attorney general or a designated representative finds that retention of an employee would endanger the peace and safety of others or pose a grave threat to the public interest, the employee may be summarily suspended pending administrative hearings and a review by the Career Service Review Office.
- (3)
  - (a) An employee in a career status who is aggrieved by a decision of the attorney general or a designated representative to suspend, demote, or dismiss the employee may appeal the decision to the Career Service Review Office or its hearing officers by following the procedures in Title 67, Chapter 19a, Grievance Procedures.
  - (b) Matters other than dismissal or demotion may be appealed to and reviewed by the attorney general or a designated representative whose decision is final with no right of appeal to the Career Service Review Office or its hearing officers.
- (4) Disciplinary actions shall be supported by credible evidence, but the normal rules of evidence in courts of law do not apply in hearings before the attorney general or a designated representative or the Career Service Review Office or its hearing officers.
- (5)
  - (a) Reductions in force required by reinstatement of an employee under Section 67-5-11, inadequate funds, change of workload, or lack of work shall be governed by a retention roster to be maintained by the Office of the Attorney General and the requirements of this Subsection (5).
  - (b) Except attorney general executive or administrative appointees, employees not in a career status shall be separated before any employee in a career status.
  - (c) Retention points for each employee in a career status shall be based on the employee's seniority in service within each employee category in the Office of the Attorney General, including any military service fulfilled subsequent to the employee's original appointment.
  - (d) Employees in career status shall be separated in the order of their retention points, the employee with the lowest points to be discharged first.
  - (e) Those employees who are serving in other positions under Section 67-5-11 shall:
    - (i) have retention points determined as if they were working for the office; and

- (ii) be separated in the order of the retention points as if they were working in the Office of the Attorney General.
- (f) An employee in a career status who is separated by reason of a reduction in force shall be:
  - (i) placed on a reappointment register kept by the Office of the Attorney General for one year; and
  - (ii) offered reappointment to a position in the same category in the Office of the Attorney General before any employee not having a career status is appointed.

Amended by Chapter 369, 2012 General Session

**67-5-13 Limitations on political activities by career status employees.**

- (1) An employee in a career status may not, while in a pay status, be a state or federal officer in any partisan political party organization or in any statewide partisan political campaign. The employee, however, may be an officer or delegate in a partisan political party organization at a county or inferior level or a delegate at a state or national level.
- (2) An employee in career status may not be a candidate for any partisan political office, but upon application to the attorney general the employee shall be granted a leave of absence without pay but without loss of existing seniority to participate in a partisan political campaign either as an officer or as a candidate. Time spent during the political leave shall not be counted for seniority purposes as being in service. For the purposes of this section, an employee is not considered to be a candidate until the primary elections have been held.
- (3) An employee in career status may not engage in political activity during the hours of employment, nor may any person solicit political contributions from any employee in career status during hours of employment or through state facilities or in any manner impose assessments on them for political purposes; but nothing in this section shall preclude voluntary contributions to a candidate or a political party.
- (4) Partisan political activity shall not be a basis for employment, promotion, demotion, or dismissal. Any violation of this section may lead to disciplinary action against the employee, which may consist of reprimand, suspension, demotion, or termination as determined by the attorney general.
- (5) This section shall not be construed to permit partisan political activity by any employee in career status who is prevented or restricted from engaging in this political activity by the provisions of any federal act or the rules and regulations promulgated under it.

Amended by Chapter 166, 2007 General Session

**67-5-15 Records of the attorney general.**

- (1) A record provided to the Office of the Attorney General by a client governmental entity shall be considered a record of the client governmental entity for purposes of Title 63G, Chapter 2, Government Records Access and Management Act, if the client governmental entity retains a copy of the record.
- (2) Notwithstanding Subsection 63G-2-201(5), records may be exchanged between the Office of the Attorney General and a client governmental entity, without meeting the requirements of Section 63G-2-206 provided that they are used only for the purpose of representing the client governmental entity.

Amended by Chapter 382, 2008 General Session

**67-5-16 Child protective services investigators within attorney general's office -- Authority -- Training.**

- (1) The attorney general may employ, with the consent of the Division of Child and Family Services within the Department of Health and Human Services, and in accordance with Section 80-2-703, child protective services investigators to investigate alleged instances of abuse or neglect of a child that occur while a child is in the custody of the Division of Child and Family Services. Those investigators may also investigate reports of abuse or neglect of a child by an employee of the Department of Health and Human Services, or involving a person or entity licensed to provide substitute care for children in the custody of the Division of Child and Family Services.
- (2) Attorneys who represent the Division of Child and Family Services under Section 67-5-17, and child protective services investigators employed by the attorney general under Subsection (1), shall be trained on and implement into practice the following items, in order of preference and priority:
  - (a) the priority of maintaining a child safely in the child's home, whenever possible;
  - (b) the importance of:
    - (i) kinship placement, in the event the child is removed from the home; and
    - (ii) keeping sibling groups together, whenever practicable and in the best interests of the children;
  - (c) the preference for kinship adoption over nonkinship adoption, if the parent-child relationship is legally terminated;
  - (d) the potential for a guardianship placement if the parent-child relationship is legally terminated and no appropriate adoption placement is available; and
  - (e) the use of an individualized permanency goal, only as a last resort.

Amended by Chapter 330, 2023 General Session

**67-5-17 Attorney-client relationship.**

- (1) When representing the governor, lieutenant governor, auditor, or treasurer, or when representing an agency under the supervision of any of those officers, the attorney general shall:
  - (a) keep the officer or the officer's designee reasonably informed about the status of a matter and promptly comply with reasonable requests for information;
  - (b) explain a matter to the extent reasonably necessary to enable the officer or the officer's designee to make informed decisions regarding the representation;
  - (c) abide by the officer's or designee's decisions concerning the objectives of the representation and consult with the officer or designee as to the means by which they are to be pursued; and
  - (d) jointly by agreement, establish protocols with the officer to facilitate communications and working relationships with the officer or agencies under the officer's supervision.
- (2) Nothing in Subsection (1) modifies or supercedes any independent legal authority granted specifically by statute to the attorney general.
- (3) When the attorney general institutes or maintains a civil enforcement action on behalf of the state of Utah that is not covered under Subsection (1), the attorney general shall:
  - (a) fully advise the governor, as the officer in whom the executive authority of the state is vested, before instituting the action, entering into a settlement or consent decree, or taking an appeal; and
  - (b) keep the governor reasonably informed about the status of the matter and promptly comply with reasonable requests for information.

- (4) In a civil action not covered under Subsection (1) or (3), the attorney general shall:
  - (a) keep the governor reasonably informed about the status of the matter and promptly comply with reasonable requests for information;
  - (b) explain the matter to the extent reasonably necessary to enable the governor to make informed decisions regarding the representation; and
  - (c) abide by the governor's decisions concerning the objectives of the representation and consult with the governor as to the means by which they are to be pursued.
- (5) The governor may appear in any civil legal action involving the state and appoint legal counsel to advise or appear on behalf of the governor. The court shall allow the governor's appearance.
- (6)
  - (a) As used in this section, "cooperative state litigation" means:
    - (i) an anticipated or pending settlement that may require approval by the Legislature or the Legislative Management Committee in accordance with Title 63G, Chapter 10, State Settlement Agreements Act; or
    - (ii) anticipated or pending litigation in which:
      - (A) a party challenges the constitutionality of a state law; or
      - (B) the state challenges a federal law or regulation.
  - (b) When the Office of the Attorney General discusses or shares with persons within the legislative branch documents or information related to cooperative state litigation, the sharing is in furtherance of matters of common interest between the represented parties.

Amended by Chapter 509, 2024 General Session

**67-5-20 Internet crimes against children -- Education programs.**

- (1)
  - (a) The attorney general may assist in efforts to prevent and prosecute Internet crimes against children, including working with other agencies of state and local government.
  - (b) Under Subsection (1)(a), the attorney general may administer the Internet Crimes Against Children Task Force, which is a statewide multidisciplinary and multijurisdictional task force that investigates, prevents, and prosecutes sexual exploitation offenses against children by offenders who use the Internet, online communications systems, or other computer technology.
- (2)
  - (a) As part of the attorney general's participation in this task force, the attorney general shall make available, to the extent legislative funding is available, statewide training and informational materials regarding Internet safety for children that focuses on prevention, reporting, and assistance regarding Internet crimes against children.
  - (b) The training and information shall include programs and information specifically designed for:
    - (i) children, which shall include classroom presentations and informative leaflets or other printed material; and
    - (ii) parents, guardians, educators, school resource officers, parent-teacher organizations, and libraries, which shall include Internet safety, technological protection measures, and effective supervision and review of children's use of the Internet, including locating and assessing sites children have had contact with.
  - (c) As possible, the attorney general shall direct that the task force work with state and local agencies that provide information and programs to prevent and prosecute Internet crimes against children to ensure the most effective use of resources.



Enacted by Chapter 277, 2005 General Session

**67-5-21 Internet Crimes Against Children (ICAC) unit creation -- Duties -- Employment of staff.**

- (1) There is created within the Office of the Attorney General the Internet Crimes Against Children (ICAC) unit to investigate and prosecute cases involving child sexual abuse material and cases involving enticing minors over the Internet into illegal sexual acts.
- (2) The attorney general may employ investigators, prosecutors, and necessary support staff for the unit created under Subsection (1).

Amended by Chapter 231, 2023 General Session

**67-5-22.7 Multi-agency strike force to combat violent and other major felony crimes associated with illegal immigration and human trafficking -- Fraudulent Documents Identification Unit.**

- (1) The Office of the Attorney General is authorized to administer and coordinate the operation of a multi-agency strike force to combat violent and other major felony crimes committed within the state that are associated with illegal immigration and human trafficking.
- (2) The office shall invite officers of the U.S. Immigration and Customs Enforcement and state and local law enforcement personnel to participate in this mutually supportive, multi-agency strike force to more effectively utilize their combined skills, expertise, and resources.
- (3) The strike force shall focus its efforts on detecting, investigating, deterring, and eradicating violent and other major felony criminal activity related to illegal immigration and human trafficking.
- (4) In conjunction with the strike force and subject to available funding, the Office of the Attorney General shall establish a Fraudulent Documents Identification Unit:
  - (a) for the primary purpose of investigating, apprehending, and prosecuting individuals or entities that participate in the sale or distribution of fraudulent documents used for identification purposes;
  - (b) to specialize in fraudulent identification documents created and prepared for individuals who are unlawfully residing within the state; and
  - (c) to administer the Identity Theft Victims Restricted Account created under Subsection (5).
- (5)
  - (a) There is created a restricted account in the General Fund known as the "Identity Theft Victims Restricted Account."
  - (b) The Identity Theft Victims Restricted Account shall consist of money appropriated to the Identity Theft Victims Restricted Account by the Legislature.
  - (c) Subject to appropriations from the Legislature, beginning on the program start date, as defined in Section 63G-12-102, the Fraudulent Documents Identification Unit may expend the money in the Identity Theft Victims Restricted Account to pay a claim as provided in this Subsection (5) to a person who is a victim of identity theft prosecuted under Section 76-11-215 or 76-6-1102.
  - (d) To obtain payment from the Identity Theft Victims Restricted Account, a person shall file a claim with the Fraudulent Documents Identification Unit by no later than one year after the day on which an individual is convicted, pleads guilty to, pleads no contest to, pleads guilty in a similar manner to, or resolved by diversion or its equivalent an offense under Section 76-11-215 or 76-6-1102 for the theft of the identity of the person filing the claim.

- (e) A claim filed under this Subsection (5) shall include evidence satisfactory to the Fraudulent Documents Identification Unit:
    - (i) that the person is the victim of identity theft described in Subsection (5)(d); and
    - (ii) of the actual damages experienced by the person as a result of the identity theft that are not recovered from a public or private source.
  - (f) The Fraudulent Documents Identification Unit shall pay a claim from the Identity Theft Victims Restricted Account:
    - (i) if the Fraudulent Documents Identification Unit determines that the person has provided sufficient evidence to meet the requirements of Subsection (5)(e);
    - (ii) in the order that claims are filed with the Fraudulent Documents Identification Unit; and
    - (iii) to the extent that there is money in the Identity Theft Victims Restricted Account.
  - (g) If there is insufficient money in the Identity Theft Victims Restricted Account when a claim is filed under this Subsection (5) to pay the claim in full, the Fraudulent Documents Identification Unit may pay a claim when there is sufficient money in the account to pay the claim in the order that the claims are filed.
- (6) The strike force shall make an annual report on its activities to the governor and the Legislature's Law Enforcement and Criminal Justice Interim Committee by December 1, together with any proposed recommendations for modifications to this section.

Amended by Chapter 173, 2025 General Session

**67-5-23 Use of state vehicles for law enforcement officers.**

Subject to rules adopted by the Division of Fleet Operations under Section 63A-9-401, the attorney general may authorize a law enforcement officer, as defined in Section 53-13-103, who is an employee of the Office of the Attorney General to use a state issued vehicle for official and personal use.

Amended by Chapter 295, 2017 General Session

**67-5-24 Attorney General Crime and Violence Prevention Fund -- Use of money -- Restrictions -- Volunteer task force -- Staff.**

- (1) There is created an expendable special revenue fund known as the Attorney General Crime and Violence Prevention Fund.
- (2) The fund shall consist of:
  - (a) appropriations by the Legislature;
  - (b) gifts, grants, devises, donations, and bequests of real property, personal property, or services, from any source; and
  - (c) money granted by the federal government, or donated or granted by another person, for a purpose described in Subsection (4)(n).
- (3)
  - (a) If the donor designates a specific purpose or use for a gift, grant, devise, donation, or bequest provided under Subsection (2)(b), money from the fund shall be used solely for that purpose.
  - (b) Unless designated for a specific purpose under Subsection (3)(a), money in the fund not restricted to a specific use under federal law shall be used in connection with the activities under Subsection (4).
  - (c) The attorney general or the attorney general's designee shall authorize the expenditure of fund money in accordance with this section.

- (d) The money in the fund may not be used for administrative expenses of the Office of the Attorney General normally provided for by legislative appropriation, except for the purposes described in Subsection (8).
- (4) Except as provided under Subsection (3), the fund money shall be used for any of the following activities:
  - (a) the Amber Alert program;
  - (b) prevention of crime against seniors;
  - (c) prevention of domestic violence and dating violence;
  - (d) programs designed to reduce the supply or demand of illicit or controlled substances;
  - (e) preventing gangs and gang violence;
  - (f) Internet safety programs, including Internet literacy for parents;
  - (g) mentoring Utah partnerships;
  - (h) suicide prevention programs;
  - (i) underage alcohol and substance misuse prevention programs;
  - (j) antipornography programs;
  - (k) victims assistance programs;
  - (l) identity theft investigations and prosecutions;
  - (m) identity theft reporting system database; or
  - (n) in relation to the drug disposal program described in Section 67-5-36:
    - (i) the purchase, operation, or maintenance of a repository in the state;
    - (ii) the purchase or distribution of a home controlled substance disposal receptacle;
    - (iii) educating citizens on the lawful and environmentally friendly disposal of a controlled substance; or
    - (iv) notwithstanding Subsection (3)(d), if not prohibited by the grantor or donor described in Subsection (2)(b), the costs of administering the drug disposal program, in an amount that does not exceed 10% of the money provided by the grantor or donor.
- (5) The state treasurer shall invest the money in the fund under Title 51, Chapter 7, State Money Management Act, except that all interest or other earnings derived from the fund money shall be deposited in the fund.
- (6) The attorney general shall make an annual report to the Legislature regarding the status of the fund, including:
  - (a) a report on the contributions received, expenditures made, and programs and services funded; and
  - (b) if the attorney general establishes a task force under Subsection (7), all activities and programs initiated through the task force.
- (7) The attorney general may establish a volunteer task force consisting of representatives from public or private agencies or organizations in the state to address any of the activities described in Subsection (4).
- (8) The attorney general may employ necessary support staff to implement and administer the fund and the activities of a task force established under Subsection (7).

Amended by Chapter 210, 2020 General Session

Amended by Chapter 443, 2020 General Session

**67-5-27 Real estate fraud prosecutor.**

- (1) The state attorney general shall employ an attorney licensed to practice law in Utah who:
  - (a) has knowledge of the law related to mortgage fraud; and
  - (b) preferably also has background or expertise in investigating and prosecuting mortgage fraud.

- (2) The primary responsibility of the attorney employed under Subsection (1) is the prosecution of real estate fraud.
- (3) The state attorney general may employ clerks, interns, or other personnel as necessary to assist the attorney employed under Subsection (1).

Enacted by Chapter 370, 2008 General Session

**67-5-28 Memorandum of Understanding regarding enforcement of federal immigration laws -- Communications regarding immigration status -- Private cause of action.**

- (1) The attorney general shall negotiate the terms of a Memorandum of Understanding between the state and the United States Department of Justice or the United States Department of Homeland Security as provided in 8 U.S.C., Sec. 1357(g) for the enforcement of federal immigration and customs laws within the state by state and local law enforcement personnel, to include investigations, apprehensions, detentions, and removals of persons who are illegally present in the United States.
- (2) The attorney general, the governor, or an individual otherwise required by the appropriate federal agency referred to in Subsection (1) shall sign the Memorandum of Understanding on behalf of the state.
- (3)
  - (a) A unit of local government, whether acting through its governing body or by an initiative or referendum, may not enact an ordinance or policy that limits or prohibits a law enforcement officer, local official, or local government employee from communicating or cooperating with federal officials regarding the immigration status of a person within the state.
  - (b) Notwithstanding any other provision of law, a government entity or official within the state may not prohibit or in any way restrict a government entity or official from sending to, or receiving from, the United States Department of Homeland Security information regarding the citizenship or immigration status, lawful or unlawful, of an individual.
  - (c) Notwithstanding any other provision of law, a person or agency may not prohibit or in any way restrict a public employee from doing the following regarding the immigration status, lawful or unlawful, of an individual:
    - (i) sending information to or requesting or receiving information from the United States Department of Homeland Security;
    - (ii) maintaining the information referred to in Subsection (3)(c)(i); and
    - (iii) exchanging the information referred to in Subsection (3)(c)(i) with any other federal, state, or local government entity.
  - (d) This Subsection (3) allows for a private right of action by a natural or legal person lawfully domiciled in this state to file for a writ of mandamus to compel a noncompliant local or state governmental agency to comply with the reporting laws of this Subsection (3).

Enacted by Chapter 26, 2008 General Session

**67-5-29 Duty to file legal actions.**

- (1) The attorney general may file an action to enforce the Utah Enabling Act, Section 9.
- (2) In accordance with Title 78B, Chapter 6, Particular Proceedings, the attorney general shall file an eminent domain action or quiet title action on property possessed by the federal government:
  - (a)

- (i) that facilitates the state's ability to manage the school and institutional trust lands consistent with the state's fiduciary responsibilities towards the beneficiaries of the trust lands; and
- (ii)
  - (A) that provides access to school and institutional trust lands; or
  - (B) that increases the profitability of the school and institutional trust lands; or
- (b) for a public use that increases the ability of the state to generate revenue.
- (3) The attorney general shall file, by no later than July 1, 2011, an eminent domain action or quiet title action described in Subsection (2) on property possessed by the federal government for:
  - (a) a highway on Spring Creek Road located in the western half of section 3, township 38 south, range 12 west to provide access to section 2, township 38 south, range 12 west;
  - (b) a highway off of Old Canyon Road located in the northeast quarter of the southeast quarter of section 5, township 10 north, range 5 east to provide access to the southeast quarter of the southeast quarter of section 32, township 11 north, range 5 east; or
  - (c) the purposes described in Subsection (2).

Enacted by Chapter 262, 2010 General Session

**67-5-30 Mortgage and Financial Fraud Unit creation -- Duties -- Employment of staff.**

- (1) The attorney general may assist in efforts to prevent, investigate, and prosecute mortgage fraud, as described in Section 76-6-1203, and other financial fraud, including working with other agencies of state and local government.
- (2) There is created within the Office of the Attorney General the Mortgage and Financial Fraud Unit to investigate and prosecute cases of mortgage fraud and other financial fraud.
- (3) The Mortgage and Financial Fraud Unit shall focus its efforts on detecting, investigating, deterring, and prosecuting mortgage fraud and other major financial fraud crimes.
- (4) The attorney general may employ investigators, prosecutors, and necessary support staff for the unit created under Subsection (2).

Enacted by Chapter 350, 2012 General Session

**67-5-31 Mortgage and Financial Fraud Investigation and Prosecution Restricted Account.**

- (1) There is created a restricted account within the General Fund known as the "Mortgage and Financial Fraud Investigation and Prosecution Restricted Account."
- (2) The restricted account includes:
  - (a) \$2,000,000 of deposits from the foreclosure fraud settlement agreement between the United States Justice Department, United States Department of Housing and Urban Development, and a bipartisan group of state attorneys general, including Utah's attorney general, Bank of America, Citi, JP Morgan Chase, GMAC, and Wells Fargo announced in February 2012; and
  - (b) any other amount appropriated by the Legislature.
- (3) Money from the restricted account shall be used by the attorney general to:
  - (a) investigate and prosecute mortgage and financial fraud throughout the state; and
  - (b) fund mortgage and financial fraud investigation and prosecution staff.

Enacted by Chapter 350, 2012 General Session

**67-5-32 Rulemaking authority regarding the procurement of outside counsel, expert witnesses, and other litigation support services.**

- (1) The attorney general shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish public disclosure, transparency, accountability, reasonable fees and limits on fees, and reporting in relation to the procurement of outside counsel, expert witnesses, and other litigation support services.
- (2) The rules described in Subsection (1) shall:
  - (a) ensure that a procurement for outside counsel is supported by a determination by the attorney general that the procurement is in the best interests of the state, in light of available resources of the attorney general's office;
  - (b) provide for the fair and equitable treatment of all potential providers of outside counsel, expert witnesses, and other litigation support services;
  - (c) ensure a competitive process, to the greatest extent possible, for the procurement of outside counsel, expert witnesses, and other litigation support services;
  - (d) ensure that fees for outside counsel, whether based on an hourly rate, contingency fee, or other arrangement, are reasonable and consistent with industry standards;
  - (e) ensure that contingency fee arrangements do not encourage high risk litigation that is not in the best interests of the citizens of the state;
  - (f) provide for oversight and control, by the attorney general's office, in relation to outside counsel, regardless of the type of fee arrangement under which outside counsel is hired;
  - (g) prohibit outside counsel from adding a party to a lawsuit or causing a new party to be served with process without the express written authorization of the attorney general's office;
  - (h) establish for transparency regarding the procurement of outside counsel, expert witnesses, and other litigation support services, subject to:
    - (i) Title 63G, Chapter 2, Government Records Access and Management Act; and
    - (ii) other applicable provisions of law and the Utah Rules of Professional Conduct;
  - (i) establish standard contractual terms for the procurement of outside counsel, expert witnesses, and other litigation support services; and
  - (j) provide for the retention of records relating to the procurement of outside counsel, expert witnesses, and other litigation support services.

Amended by Chapter 18, 2017 General Session

**67-5-33 Contingent fee contracts.**

- (1) As used in this section:
  - (a) "Contingent fee case" means a legal matter for which legal services are provided under a contingent fee contract.
  - (b) "Contingent fee contract" means a contract for legal services under which the compensation for legal services is a percentage of the amount recovered in the legal matter for which the legal services are provided.
  - (c) "Government attorney" means the attorney general or an assistant attorney general.
  - (d) "Legal matter" means a legal issue or administrative or judicial proceeding within the scope of the attorney general's authority.
  - (e) "Private attorney" means an attorney or law firm in the private sector.
  - (f) "Securities class action" means an action brought as a class action alleging a violation of federal securities law, including a violation of the Securities Act of 1933, 15 U.S.C. Sec. 77a et seq., or the Securities Exchange Act of 1934, 15 U.S.C. Sec. 78a et seq.
- (2) Subsections (3) through (9):
  - (a) do not apply to a contingent fee contract in existence before May 12, 2015, or to any renewal or modification of a contingent fee contract in existence before that date;

- (b) do not apply to a contingent fee contract with a private attorney that the attorney general hires to collect a debt that the attorney general is authorized by law to collect; and
  - (c) with respect to a contingent fee contract with a private attorney in a securities class action in which the state is appointed as lead plaintiff under Section 27(a)(3)(B)(i) of the Securities Act of 1933 or Section 21D(a)(3)(B)(i) of the Securities Exchange Act of 1934 or in which any state is a class representative, or in any other action in which the state is participating with one or more other states:
    - (i) apply only with respect to the state's share of any judgment, settlement amount, or common fund; and
    - (ii) do not apply to attorney fees awarded to a private attorney for representing other members of a class certified under Rule 23 of the Federal Rules of Civil Procedure or applicable state class action procedural rules.
- (3)
- (a) The attorney general may not enter into a contingent fee contract with a private attorney unless the attorney general or the attorney general's designee makes a written determination that the contingent fee contract is cost-effective and in the public interest.
  - (b) A written determination under Subsection (3)(a) shall:
    - (i) be made before or within a reasonable time after the attorney general enters into a contingent fee contract; and
    - (ii) include specific findings regarding:
      - (A) whether sufficient and appropriate legal and financial resources exist in the attorney general's office to handle the legal matter that is the subject of the contingent fee contract; and
      - (B) the nature of the legal matter, unless information conveyed in the findings would violate an ethical responsibility of the attorney general or a privilege held by the state.
- (4) The attorney general or attorney general's designee shall request qualifications from a private attorney being considered to provide services under a contingent fee contract unless the attorney general or attorney general's designee:
- (a) determines that requesting qualifications is not feasible under the circumstances; and
  - (b) sets forth the basis for the determination under Subsection (4)(a) in writing.
- (5)
- (a) The attorney general may not enter into a contingent fee contract with a private attorney that provides for the private attorney to receive a contingent fee, exclusive of reasonable costs and expenses, that exceeds:
    - (i)
      - (A) 25% of the amount recovered, if the amount recovered is no more than \$10,000,000;
      - (B) 25% of the first \$10,000,000 recovered, plus 20% of the amount recovered that exceeds \$10,000,000, if the amount recovered is over \$10,000,000 but no more than \$15,000,000;
      - (C) 25% of the first \$10,000,000 recovered, plus 20% of the next \$5,000,000 recovered, plus 15% of the amount recovered that exceeds \$15,000,000, if the amount recovered is over \$15,000,000 but no more than \$20,000,000; and
      - (D) 25% of the first \$10,000,000 recovered, plus 20% of the next \$5,000,000 recovered, plus 15% of the next \$5,000,000 recovered, plus 10% of the amount recovered that exceeds \$20,000,000, if the amount recovered is over \$20,000,000; or
    - (ii) \$50,000,000.
  - (b) A provision of a contingent fee contract that is inconsistent with a provision of this section is invalid unless, before the contract is executed, the contingent fee contract provision is approved by a majority of the attorney general, state treasurer, and state auditor.

- (c) A contingent fee under a contingent fee contract may not be based on the imposition or amount of a penalty or civil fine.
  - (d) A contingent fee under a contingent fee contract may be paid only on amounts actually recovered by the state.
- (6)
- (a) Throughout the period covered by a contingent fee contract, including any extension of the contingent fee contract:
    - (i) the private attorney that is a party to the contingent fee contract shall acknowledge that the government attorney retains complete control over the course and conduct of the contingent fee case for which the private attorney provides legal services under the contingent fee contract;
    - (ii) a government attorney with supervisory authority shall oversee any litigation involved in the contingent fee case;
    - (iii) a government attorney retains final authority over any pleading or other document that the private attorney submits to court;
    - (iv) an opposing party in a contingent fee case may contact the lead government attorney directly, without having to confer with the private attorney;
    - (v) a government attorney with supervisory authority over the contingent fee case may attend all settlement conferences; and
    - (vi) the private attorney shall acknowledge that final approval regarding settlement of the contingent fee case is reserved exclusively to the discretion of the attorney general.
  - (b) Nothing in Subsection (6)(a) may be construed to limit the authority of the client regarding the course, conduct, or settlement of the contingent fee case.
- (7)
- (a) Within five business days after entering into a contingent fee contract, the attorney general shall post on the attorney general's website:
    - (i) the contingent fee contract;
    - (ii) the written determination under Subsection (3) relating to that contingent fee contract; and
    - (iii) if applicable, any written determination made under Subsection (4)(b) relating to that contingent fee contract.
  - (b) The attorney general shall keep the contingent fee contract and written determination posted on the attorney general's website throughout the term of the contingent fee contract.
- (8) A private attorney that enters into a contingent fee contract with the attorney general shall:
- (a) from the time the contingent fee contract is entered into until three years after the contract expires, maintain detailed records relating to the legal services provided by the private attorney under the contingent fee contract, including documentation of all expenses, disbursements, charges, credits, underlying receipts and invoices, and other financial transactions that relate to the legal services provided by the private attorney; and
  - (b) maintain detailed contemporaneous time records for the attorneys and paralegals working on the contingent fee case and promptly provide the records to the attorney general upon request.
- (9)
- (a) After June 30 but on or before September 1 of each year, the attorney general shall submit a written report to the president of the Senate and the speaker of the House of Representatives describing the attorney general's use of contingent fee contracts with private attorneys during the fiscal year that ends the immediately preceding June 30.
  - (b) A report under Subsection (9)(a) shall:
    - (i) identify:



- (A) each contingent fee contract the attorney general entered into during the fiscal year that ends the immediately preceding June 30; and
  - (B) each contingent fee contract the attorney general entered into during any earlier fiscal year if the contract remained in effect for any part of the fiscal year that ends the immediately preceding June 30;
  - (ii) for each contingent fee contract identified under Subsection (9)(b)(i):
    - (A) state the name of the private attorney that is a party to the contingent fee contract, including the name of the private attorney's law firm if the private attorney is an individual;
    - (B) describe the nature of the legal matter that is the subject of the contingent fee contract, unless describing the nature of the legal matter would violate an ethical responsibility of the attorney general or a privilege held by the state;
    - (C) identify the state agency which the private attorney was engaged to represent or counsel; and
    - (D) state the total amount of attorney fees approved by the attorney general for payment to a private attorney for legal services under a contingent fee contract during the fiscal year that ends the immediately preceding June 30; and
  - (iii) be accompanied by each written determination under Subsection (3) or (4)(b) made during the fiscal year that ends the immediately preceding June 30.
- (10) Nothing in this section may be construed to expand the authority of a state department, division, or other agency to enter into a contract if that authority does not otherwise exist.

Enacted by Chapter 362, 2015 General Session

**67-5-34 Rate committee -- Membership -- Duties.**

- (1)
  - (a) There is created a rate committee that consists of:
    - (i) the executive director of the Governor's Office of Planning and Budget, or the executive director's designee; and
    - (ii) the executive directors of six state agencies that use or are likely to use services and pay rates to the Office of the Attorney General's internal service fund, appointed by the governor for a two-year term, or the executive directors' designees.
  - (b) The rate committee shall elect a chair from the rate committee's members.
- (2) Each member of the rate committee who is a state government employee and does not receive salary, per diem, or expenses from the member's agency for the member's service on the rate committee shall receive no compensation, benefits, per diem, or expenses for the member's service on the rate committee.
- (3) The Office of the Attorney General shall provide staff services to the rate committee.
- (4) The Office of the Attorney General shall submit to the rate committee a proposed rate and fee schedule for legal services rendered by the Office of the Attorney General to an agency.
- (5)
  - (a) The rate committee shall:
    - (i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings Act;
    - (ii) review the proposed rate and fee schedules and, at the rate committee's discretion, approve, increase, or decrease the rate and fee schedules;
    - (iii) recommend a proposed rate and fee schedule for the internal service fund to:
      - (A) the Governor's Office of Planning and Budget; and
      - (B) each legislative appropriations subcommittee that, in accordance with Section 63J-1-410, approves the internal service fund rates, fees, and budget; and

- (iv) review and approve, increase or decrease an interim rate, fee, or amount when the office begins a new service or introduces a new product between annual general sessions of the Legislature.
- (b) The committee may, in accordance with Subsection 63J-1-410(4), decrease a rate, fee, or amount that has been approved by the Legislature.

Amended by Chapter 382, 2021 General Session

**67-5-35 Lawful use of force -- Training program.**

- (1)
  - (a) The attorney general is authorized to administer and coordinate the provision of legal and practical training for law enforcement officers in the state regarding the constitutional and lawful use of force, including:
    - (i) best practices in reducing law enforcement officer use of force; and
    - (ii) legal foundations and limitations on law enforcement officer authority under Section 76-2-404, the Utah Constitution or laws of the state, and the United States Constitution or laws of the United States.
  - (b) Under Subsection (1)(a), the attorney general may create a training center and provide:
    - (i) technology integrating legal training on the use of force by law enforcement officers;
    - (ii) best practices regarding law enforcement officer response to threatening situations; and
    - (iii) law enforcement officer tactical training, including:
      - (A) virtual reality simulator training;
      - (B) investigation of a use of force incident; and
      - (C) legal documentation of use of force.
- (2)
  - (a) The attorney general shall make available statewide legal and practical training for law enforcement officers in the state and informational materials regarding law enforcement officer use of force and related subjects.
  - (b) The training and informational materials shall include programs and information specifically designed to address:
    - (i) pre-escalation recognition of potential resistance and law enforcement officer response options that do not involve force;
    - (ii) decision-making skills regarding use of force;
    - (iii) management of law enforcement officer stress during threatening situations;
    - (iv) tactical disengagement;
    - (v) sanctity and preservation of life;
    - (vi) investigating and critiquing a law enforcement officer incident of use of force; and
    - (vii) the legal foundations and limitations on law enforcement officer authority under the Utah Constitution or laws of the state and the United States Constitution or laws of the United States.
  - (c) The attorney general shall work with state and local agencies to ensure the most effective use of resources in providing training for law enforcement officers throughout the state.
- (3) The attorney general may employ staff necessary to implement the training center created under this section.

Enacted by Chapter 412, 2016 General Session

**67-5-36 Drug Disposal Program.**

- (1) As used in the section:
  - (a) "Controlled substance" means the same as that term is defined in Section 58-37-2.
  - (b) "Department" means the Department of Environmental Quality.
  - (c) "Environmentally friendly" means a controlled substance that is rendered:
    - (i) non-retrievable, as determined by the attorney general in consultation with the department;
    - (ii) non-hazardous, as determined by the department; and
    - (iii) permissible to dispose in a landfill in a manner that does not violate state or federal law relating to surface water or groundwater.
  - (d) "Home controlled substance disposal receptacle" means a receptacle provided by the program that can be used by an individual to render a small amount of controlled substances at an individual's residence non-retrievable and environmentally friendly.
  - (e) "Non-retrievable" means the same as that term is defined in 21 C.F.R. 1300.05.
  - (f) "Program" means the Drug Disposal Program described in this section.
  - (g) "Repository" means a controlled substance disposal repository described in Subsection (3).
- (2) The attorney general may, in coordination with the department and within funds available for this purpose, administer a program, known as the Drug Disposal Program, to provide for the safe, secure, and environmentally friendly disposal of controlled substances in the state.
- (3) The attorney general and the department, in developing and implementing the program:
  - (a) may work with law enforcement agencies, pharmacies, hospitals, and other entities to ensure that one or more repositories are present in each county in the state;
  - (b) shall ensure that each repository:
    - (i) renders a controlled substance placed in the repository non-retrievable and environmentally friendly, onsite; and
    - (ii) is secure from tampering or unauthorized removal;
  - (c) may require verification that:
    - (i) a repository complies with Subsection (3)(b); and
    - (ii) a home controlled substance disposal receptacle renders a controlled substance non-retrievable and environmentally friendly;
  - (d) shall ensure that the program operates in accordance with Drug Enforcement Administration rules; and
  - (e) may publish, on the websites of the attorney general's office and the department:
    - (i) a list of the location of each repository in the state; and
    - (ii) if home controlled substance disposal receptacles are used as part of the program, information on how to obtain a home controlled substance disposal receptacle.
- (4) The attorney general may, instead of, or in addition to, establishing a repository in a county, establish a process for residents of the county to obtain a home controlled substance disposal receptacle.
- (5) A state or local government entity, other than the attorney general's office, the department, or a designee of the department, may not:
  - (a) regulate the disposal of a controlled substance rendered non-retrievable in a repository or home controlled substance disposal receptacle differently, or more strictly, than disposal of non-hazardous household waste;
  - (b) regulate or restrict the location of a repository or the distribution of a home controlled substance disposal receptacle; or
  - (c) otherwise take action to regulate or interfere with administration of the program.
- (6) This section does not prohibit the disposal of a controlled substance:
  - (a) in a receptacle that does not qualify as a repository if:

- (i) the receptacle is located on the premises of an entity authorized by Drug Enforcement Administration rules to accept a controlled substance for subsequent disposal; and
  - (ii) the entity described in Subsection (6)(a)(i) ensures that the controlled substance is managed in a manner permitted by Drug Enforcement Administration rule; or
  - (b) disposed at a facility that has received the approval required under Section 19-6-108.
- (7) Unless otherwise agreed by the attorney general, an entity described in Subsection (3)(a) that permits the placement of a repository on property owned or controlled by the entity will dispose of a controlled substance placed in the repository after the controlled substance is rendered environmentally friendly.

Enacted by Chapter 443, 2020 General Session

**67-5-37 Multi-agency joint strike force -- Joint Organized Retail Crime Unit.**

- (1) The Office of the Attorney General and the Department of Public Safety shall create and coordinate the operation of a multi-agency joint strike force to combat criminal activity that may have a negative impact on the state's economy.
- (2) The attorney general and the Department of Public Safety shall invite federal, state, and local law enforcement personnel to participate in the joint strike force to more effectively utilize their combined skills, expertise, and resources.
- (3) The joint strike force shall focus the joint strike force's efforts on detecting, investigating, deterring, and eradicating criminal activity, described in Subsection (1), within the state, including organized retail crime, antitrust violations, intellectual property rights violations, gambling, and the purchase of stolen goods for the purpose of reselling the stolen goods for profit.
- (4) In conjunction with the joint strike force, the Office of the Attorney General and the Department of Public Safety shall establish the Joint Organized Retail Crime Unit for the purpose of:
  - (a) investigating, apprehending, and prosecuting individuals or entities that participate in the purchase, sale, or distribution of stolen property; and
  - (b) targeting individuals or entities that commit theft and other property crimes for financial gain.
- (5)
  - (a) The joint strike force shall provide an annual report to the Law Enforcement and Criminal Justice Interim Committee before December 1 that describes the joint strike force's activities and any recommendations for modifications to this section.
  - (b) The report described in Subsection (5)(a) shall include the number of catalytic converter thefts and arrests in Utah for the preceding calendar year, if reasonably available.

Amended by Chapter 201, 2022 General Session

**67-5-38 Missing Child Identification Program.**

- (1) As used in this section:
  - (a) "Kit" means a fingerprint and DNA identification kit that may be used to collect and store fingerprint and DNA information.
  - (b) "Program" means the Missing Child Identification Program created in this section.
- (2)
  - (a) There is created the Missing Child Identification Program to be administered by the attorney general as described in this section.
  - (b) The purpose of the program is to provide a kit to a parent or legal guardian of a kindergarten student, to be distributed by the student's elementary school, which the parent or guardian

may use to collect and store a child's fingerprint and DNA information for potential use by law enforcement in the event that the child is missing.

- (c) If the Legislature does not appropriate funds specifically for the program, the attorney general may implement the program using other available appropriations.
- (3)
  - (a) The attorney general shall provide kits to each Utah elementary school to be distributed to the parent or legal guardian of each student entering kindergarten in the elementary school.
  - (b) The attorney general shall obtain the kits in compliance with Title 63G, Chapter 6a, Utah Procurement Code.
  - (c) The kits described in Subsection (3)(a) may be delivered to an elementary school directly through the supplier of the kits.
  - (d) The State Board of Education, or the State Board of Education's designee, shall coordinate with the attorney general to determine how many kits are needed each year at each elementary school.
  - (e) An elementary school that receives a supply of kits shall offer a kit to a parent or legal guardian for a student entering kindergarten at the elementary school.
- (4) The attorney general may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the program.

Enacted by Chapter 459, 2022 General Session

**67-5-39 Sheriff Node Program.**

- (1) As used in this section:
  - (a) "Blockchain" means the same as that term is defined in Section 78B-3-112.
  - (b) "Reversible blockchain" means the same as that term is defined in Section 78B-3-112.
  - (c) "Sheriff node" means a computer that:
    - (i) is connected to a reversible blockchain;
    - (ii) is administered by the Office of the Attorney General; and
    - (iii) allows the Office of the Attorney General to reverse a mistaken or fraudulent transaction upon receipt of:
      - (A) a court order issued under Section 78B-3-112; or
      - (B) an award issued in a valid and binding arbitration.
  - (d) "Transaction" means the same as that term is defined in Section 78B-3-112.
- (2)
  - (a) There is created a program known as the "Sheriff Node Program" within the Office of the Attorney General to operate a sheriff node on a reversible blockchain.
  - (b) The attorney general shall administer the program with funds available for this purpose.
- (3) The attorney general shall operate the program only to reverse a transaction on a reversible blockchain upon receipt of:
  - (a) a court order issued under Section 78B-3-112; or
  - (b) an award issued in a valid and binding arbitration.
- (4) The attorney general may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the program, including to:
  - (a) establish the number of reversible blockchains for which the attorney general may administer a sheriff node;
  - (b) charge and assess fees and costs for the operation of a sheriff node on a reversible blockchain;
  - (c) establish criteria for determining the validity of an arbitration award; and

- (d) establish other rules reasonably necessary to efficiently carry out the sheriff node program.

Enacted by Chapter 365, 2023 General Session

**67-5-40 Attorney General Litigation Fund.**

- (1)
  - (a) There is created an expendable special revenue fund known as the Attorney General Litigation Fund for the purpose of providing funds to pay for:
    - (i) costs and expenses incurred by the state attorney general in relation to actions under state or federal antitrust, criminal laws, or civil proceedings under Title 13, Chapter 44, Protection of Personal Information Act; and
    - (ii) citizen education and outreach related to any item described in Subsection (1)(a)(i).
  - (b) The funds described in Subsection (1)(a) are in addition to other funds as may be appropriated by the Legislature to the attorney general for the administration and enforcement of the laws of this state.
  - (c) At the close of any fiscal year, any balance in the fund in excess of \$4,000,000 shall be transferred to the General Fund.
  - (d) The attorney general may expend money from the Attorney General Litigation Fund for the purposes in Subsection (1)(a).
- (2)
  - (a) All money received by the state or the state's agencies by reason of a judgment, settlement, or compromise as the result of an action commenced, investigated, or prosecuted by the attorney general, after payment of any fines, restitution, payments, costs, or fees allocated by the court, shall be deposited into the Attorney General Litigation Fund, except as provided in Subsection (2)(b).
  - (b)
    - (i) Any expenses advanced by the attorney general in any of the actions under Subsection (1)(a) shall be credited to the Attorney General Litigation Fund.
    - (ii) Any money recovered by the attorney general on behalf of a private person or public body other than the state shall be paid to those persons or bodies from funds remaining after payment of expenses under Subsection (2)(b)(i).

Renumbered and Amended by Chapter 173, 2025 General Session

**Chapter 5a**  
**Utah Prosecution Council**

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

- (1) There is created within the Office of the Attorney General the Utah Prosecution Council, referred to as the council in this chapter.
- (2) The council shall:
  - (a)
    - (i) provide training and continuing legal education for state and local prosecutors; and
    - (ii) ensure that any training or continuing legal education described in Subsection (2)(a)(i) complies with Title 63G, Chapter 22, State Training and Certification Requirements;
  - (b) provide assistance to local prosecutors;

- (c) as funds are available and as are budgeted for this purpose, provide reimbursement for unusual expenses related to prosecution for violations of state laws;
- (d) provide training and assistance to law enforcement officers, as required elsewhere within this code; and
- (e)
  - (i) gather and maintain contact information for all prosecuting entities in the state;
  - (ii) provide the contact information for all prosecuting entities in the state to the Utah state courts; and
  - (iii) publish the contact information for all prosecuting entities in the state on the council's website.
- (3) The council shall be composed of 12 members, selected as follows:
  - (a) the attorney general or a designated representative;
  - (b) the commissioner of public safety or a designated representative;
  - (c) four currently serving county or district attorneys designated by the county or district attorneys' section of the Utah Association of Counties;
  - (d) four city prosecutors designated as follows:
    - (i) two by the Utah Municipal Attorneys Association; and
    - (ii) two by the Utah Misdemeanor Prosecutors Association;
  - (e) the chair of the Board of Directors of the Statewide Association of Prosecutors and Public Attorneys of Utah; and
  - (f) the chair of the governing board of the Utah Prosecutorial Assistants Association.
- (4) Council members designated in Subsections (3)(c) and (3)(d) shall be approved by a majority vote of currently serving council members.
- (5) A county or district attorney's term expires when a successor is designated by the county or district attorneys' section or when the county or district attorney is no longer serving as a county attorney or district attorney, whichever occurs first.
- (6) A city prosecutor's term expires when a successor is designated by the association or when the city prosecutor is no longer employed as a city prosecutor, whichever occurs first.

Amended by Chapter 250, 2022 General Session

**67-5a-2 Terms -- Filling vacancies -- Chair.**

- (1) The term of each council member is four years, unless the term is earlier terminated by:
  - (a) the authority that designated the member;
  - (b) the member ceasing to hold the office that qualified the member for membership; or
  - (c) voluntary resignation.
- (2) A member whose term has expired may continue, for not more than four months, to serve as a council member until a successor is selected and approved.
- (3) Council members may serve for more than one successive term.
- (4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for a full term that commences on the date of council approval. The vacancy shall be filled according to the provisions of Section 67-5a-1.
- (5) The council shall elect by a majority vote one of its members as chair at its first meeting and then annually.

Amended by Chapter 86, 2019 General Session

**67-5a-3 Per diem and travel expenses.**

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

- (1) Section 63A-3-106;
- (2) Section 63A-3-107; and
- (3) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Repealed and Re-enacted by Chapter 286, 2010 General Session

**67-5a-4 Holding public employment.**

A member of the council may not be disqualified as a member by holding any public office or employment, and does not forfeit any office or employment due to membership on the council. This section takes precedence over any conflicting state law, local ordinance, or city charter.

Amended by Chapter 86, 2019 General Session

**67-5a-5 Quorum -- Meetings.**

- (1) The attendance of six members at any regular or special meeting of the council constitutes a quorum. Any member may designate in writing a representative to attend any meeting. The representative's attendance shall be counted toward the quorum, and the representative may vote on any issue.
- (2) A majority vote of the attending members or their representatives constituting a quorum is sufficient to carry any motion unless the council has by prior vote designated a greater percentage than a majority to sustain an action.
- (3)
  - (a) The council shall meet at least quarterly at a time and place it designates.
  - (b) The chair, a majority of the members of the council, or the council director may call a special meeting at any time or place upon five days notice to all of the members. A quorum of all members may waive notice requirements in writing.

Amended by Chapter 86, 2019 General Session

**67-5a-6 Council director -- Qualifications and compensation.**

- (1) The council shall appoint a director. The director is the chief administrative officer and serves at the pleasure of the council.
- (2) The director shall:
  - (a) be an attorney admitted to practice in the courts of the state;
  - (b) be selected on the basis of professional ability and experience in the fields of administration, prosecution, and criminal law; and
  - (c) possess an understanding of court procedures, evidence, and criminal law.
- (3) The director shall appoint resource prosecutors, with the consent of the council, and consistent with attorney general personnel policies that are not in conflict with this chapter. Resource prosecutors shall serve at the pleasure of the council. Resource prosecutors shall:
  - (a) be an attorney admitted to practice in the courts of this state;
  - (b) be selected on the basis of professional ability and experience in the fields of prosecution and criminal law; and
  - (c) possess an understanding of court procedures, evidence, and criminal law.
- (4) The director shall appoint and supervise administrative staff consistent with attorney general personnel policy.



- (5) The council shall select and establish the compensation of the director, resource prosecutors, and administrative staff consistent with state personnel policies.

Amended by Chapter 86, 2019 General Session

**67-5a-7 Responsibilities of the director.**

Under the general supervision of the council and within the policies established by the council, the director has the responsibility to:

- (1) assign, supervise, and direct the staff of the council;
- (2) implement the standards, policies, rules, and guidelines of the council;
- (3) prepare and administer the budget of the council and comply with the Utah Budgetary Procedures Act;
- (4) maintain liaison with governmental and other public and private groups having an interest in prosecution;
- (5) organize and administer a program of training and continuing legal education for prosecutors in the state, including establishing training standards for prosecutors;
- (6) ensure all statutory required training occurs; and
- (7) perform other duties as assigned by the council.

Amended by Chapter 86, 2019 General Session

**67-5a-8 Administration.**

- (1) In exercising its duties in the administration of this chapter, the council shall minimize costs of administration and utilize existing training facilities and resources where possible so the greatest portion of the funds available are expended for training prosecuting attorneys.
- (2) Council staff may receive per diem and travel expenses in accordance with:
  - (a) Section 63A-3-106;
  - (b) Section 63A-3-107; and
  - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 230, 2020 General Session

## **Chapter 5b**

### **Children's Justice Center Program**

**67-5b-101 Definitions.**

As used in this part:

- (1) "Center" means a Children's Justice Center established in accordance with Section 67-5b-102.
- (2) "Child abuse case" means a juvenile, civil, or criminal case involving a child abuse victim.
- (3) "Child abuse victim" means a child 17 years old or younger who is:
  - (a) a victim of:
    - (i) sexual abuse; or
    - (ii) physical abuse; or
  - (b) a victim or a critical witness in any criminal case, such as a child endangerment case described in Section 76-5-112.5.

- (4) "Officers and employees" means any person performing services for two or more public agencies as agreed in a memorandum of understanding in accordance with Section 67-5b-104.
- (5) "Public agency" means a municipality, a county, the attorney general, the Division of Child and Family Services, the Division of Juvenile Justice and Youth Services, the Department of Corrections, the juvenile court, or the Administrative Office of the Courts.
- (6) "Satellite office" means a child-friendly facility supervised by a Children's Justice Center established in accordance with Section 67-5b-102.
- (7)
  - (a) "Volunteer" means any individual who donates service without pay or other compensation except expenses actually and reasonably incurred as approved by the supervising agency.
  - (b) "Volunteer" does not include an individual participating in human subjects research or a court-ordered compensatory service worker as defined in Section 67-20-2.

Amended by Chapter 240, 2024 General Session

**67-5b-102 Children's Justice Center -- Requirements of center -- Purposes of center.**

- (1)
  - (a) There is established the Children's Justice Center Program to provide a comprehensive, multidisciplinary, intergovernmental response to child abuse victims in a facility known as a Children's Justice Center.
  - (b) The attorney general shall administer the program.
  - (c) The attorney general shall:
    - (i) allocate the funds appropriated by a line item pursuant to Section 67-5b-103;
    - (ii) administer applications for state and federal grants and subgrants;
    - (iii) maintain an advisory board that is associated with the program to comply with requirements of grants that are associated with the program ;
    - (iv) assist in the development of new centers;
    - (v) coordinate services between centers;
    - (vi) contract with counties and other entities for the provision of services;
    - (vii)
      - (A) provide training, technical assistance, and evaluation to centers; and
      - (B) ensure that any training described in Subsection (1)(c)(vii)(A) complies with Title 63G, Chapter 22, State Training and Certification Requirements; and
    - (viii) provide other services to comply with established minimum practice standards as required to maintain the state's and centers' eligibility for grants and subgrants.
- (2)
  - (a) The attorney general shall establish Children's Justice Centers, satellite offices, or multidisciplinary teams in Beaver County, Box Elder County, Cache County, Carbon County, Davis County, Duchesne County, Emery County, Grand County, Iron County, Juab County, Kane County, Salt Lake County, San Juan County, Sanpete County, Sevier County, Summit County, Tooele County, Uintah County, Utah County, Wasatch County, Washington County, and Weber County.
  - (b) The attorney general may establish other centers, satellites, or multidisciplinary teams within a county and in other counties of the state.
- (3) The attorney general and each center shall:
  - (a) coordinate the activities of the public agencies involved in the investigation and prosecution of child abuse cases and the delivery of services to child abuse victims and child abuse victims' families;

- (b) provide a neutral, child-friendly program, where interviews are conducted and services are provided to facilitate the effective and appropriate disposition of child abuse cases in juvenile, civil, and criminal court proceedings;
  - (c) facilitate a process for interviews of child abuse victims to be conducted in a professional and neutral manner;
  - (d) obtain reliable and admissible information that can be used effectively in child abuse cases in the state;
  - (e) maintain a multidisciplinary team that includes representatives of public agencies involved in the investigation and prosecution of child abuse cases and in the delivery of services to child abuse victims and child abuse victims' families;
  - (f) hold regularly scheduled case reviews with the multidisciplinary team;
  - (g) coordinate and track:
    - (i) investigation of the alleged offense; and
    - (ii) preparation of prosecution;
  - (h) maintain a working protocol that addresses the center's procedures for conducting forensic interviews and case reviews, and for ensuring a child abuse victim's access to medical and mental health services;
  - (i) maintain a system to track the status of cases and the provision of services to child abuse victims and child abuse victims' families;
  - (j) provide training for professionals involved in the investigation and prosecution of child abuse cases and in the provision of related treatment and services;
  - (k) enhance community understanding of child abuse cases; and
  - (l) provide as many services as possible that are required for the thorough and effective investigation of child abuse cases.
- (4) To assist a center in fulfilling the requirements and statewide purposes as provided in Subsection (3), each center may obtain access to any relevant juvenile court legal records and adult court legal records, unless sealed by the court.

Amended by Chapter 246, 2019 General Session

**67-5b-103 Appropriation and funding.**

- (1) Funding for centers under this section is intended to be broad-based, provided by a line item appropriation by the Legislature to the attorney general, and is intended to include federal grant money, local government money, and private donations.
- (2) The money appropriated shall be used to contract with the county responsible for the operation and accountability of a center in accordance with Section 67-5b-102.
- (3) The money appropriated may be used by the program to provide resources and contract as needed to support the development of the program and the implementation of evidence-based practices and requirements.

Amended by Chapter 290, 2016 General Session

**67-5b-104 Requirements of a memorandum of understanding.**

- (1) Before a center may be established, a memorandum of understanding regarding participation in operation of the center shall be executed among:
  - (a) the contracting county designated to oversee the operation and accountability of the center, including the budget, costs, personnel, and management pursuant to Title 51, Chapter 2a,

Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;

- (b) the Office of the Attorney General;
  - (c) at least one representative of a county or municipal law enforcement agency that investigates child abuse in the area to be served by the center;
  - (d) the division of Child and Family Services;
  - (e) the county or district attorney who routinely prosecutes child abuse cases in the area to be served by the center; and
  - (f) at least one representative of any other governmental entity that participates in child abuse investigations or offers services to child abuse victims that desires to participate in the operation of the center.
- (2) A memorandum of understanding executed under this section shall include the agreement of each public agency, or its representative, described in Subsection (1) to cooperate in:
- (a) developing a comprehensive and cooperative multidisciplinary team approach to investigating child abuse;
  - (b) reducing, to the greatest extent possible, the number of interviews required of a victim of child abuse to minimize the negative impact of the investigation on the child; and
  - (c) developing, maintaining, and supporting, through the center, an environment that emphasizes the best interests of children.

Amended by Chapter 290, 2016 General Session

**67-5b-107 Immunity -- Limited liability.**

- (1) Officers and employees performing services for two or more public agencies pursuant to contracts executed under the provisions of this part are considered to be officers and employees of the public agency employing their services, even though performing those functions outside of the territorial limits of any one of the contracting public agencies, and are considered to be officers and employees of public agencies in accordance with Title 63G, Chapter 7, Governmental Immunity Act of Utah.
- (2) The officers and employees of the center, while acting within the scope of their authority, are not subject to any personal or civil liability resulting from carrying out any of the purposes of a center under the provisions of Title 63G, Chapter 7, Governmental Immunity Act of Utah.
- (3) A volunteer is considered a government employee in accordance with Section 67-20-3 and entitled to immunity under the provisions of Title 63G, Chapter 7, Governmental Immunity Act of Utah.
- (4) A volunteer, other than one considered a government employee in accordance with Section 67-20-3, may not incur any personal financial liability for any tort claim or other action seeking damage for an injury arising from any act or omission of the volunteer while providing services for the nonprofit organization if:
  - (a) the individual was acting in good faith and reasonably believed he was acting within the scope of the individual's official functions and duties with the center; and
  - (b) the damage or injury was not caused by an intentional or knowing act by the volunteer which constitutes illegal or wanton misconduct.
- (5) The center is not liable for the acts or omissions of its volunteers in any circumstance where the acts of its volunteers are not as described in Subsection (4) unless:
  - (a) the center had, or reasonably should have had, reasonable notice of the volunteer's unfitness to provide services to the center under circumstances that make the center's use of the volunteer reckless or wanton in light of that notice; or

- (b) a business employer would be liable under the laws of this state if the act or omission were the act or omission of one of its employees.

Amended by Chapter 382, 2008 General Session

## **Chapter 8**

### **Utah Elected Official and Judicial Salary Act**

#### **67-8-1 Short title.**

This act shall be known and may be cited as the "Utah Elected Official and Judicial Salary Act."

Amended by Chapter 34, 2007 General Session

#### **67-8-2 Salaries of judges established annually in appropriations act -- Bases of salaries -- Additional compensation.**

- (1) The salaries of judges of courts of record, as described in Section 78A-1-101, shall be set annually by the Legislature in an appropriations act.
- (2) Judicial salaries shall be based on the following percentages of the salary of a district court judge:
  - (a) juvenile court judges: 100%;
  - (b) Business and Chancery Court judges: 100%;
  - (c) Court of Appeals judges: 105%; and
  - (d) justices of the Supreme Court: 110%.
- (3)
  - (a) A salary described in Subsection (2) does not include additional compensation provided for a presiding judge or associate presiding judge under:
    - (i) Section 78A-3-101;
    - (ii) Section 78A-4-102;
    - (iii) Section 78A-5-106;
    - (iv) Section 78A-5a-202; or
    - (v) Section 78A-6-203.
  - (b) Compensation described in Subsection (3)(a) does not constitute a salary for purposes of Utah Constitution, Article VIII, Section 14.

Amended by Chapter 394, 2023 General Session

#### **67-8-3 Compensation plan for appointive officers -- Exceptions -- Legislative approval -- Career status attorneys.**

- (1)
  - (a) The director of the Division of Human Resource Management, based upon recommendations of the Executive and Judicial Compensation Commission shall, before October 31 of each year, recommend to the governor a compensation plan for appointed officers of the state except those officers whose compensation is set under Section 49-11-203, 53E-3-302, 53B-1-408, or 53C-1-301.
  - (b) The plan shall include salaries and wages, paid leave, group insurance plans, retirement programs, and any other benefits that may be offered to state officers.

- (2) The governor shall include in each annual budget proposal to the Legislature specific recommendations on compensation for those appointed state officers in Subsection (1).
- (3)
  - (a) After consultation with the attorney general, the director of the Division of Human Resource Management shall place career status attorneys on a state salary schedule at a range comparable with salaries paid attorneys in private and other public employment.
  - (b) The attorney general and the executive director shall take into consideration the experience of the attorney, length of service with the Office of the Attorney General, quality of performance, and responsibility involved in legal assignments.
  - (c) The attorney general and the executive director shall periodically adjust the salary levels for attorneys in a career status to reasonably compensate them for full-time employment and the restrictions placed on the private practice of law.

Amended by Chapter 344, 2021 General Session

**67-8-4 State Elected Official and Judicial Compensation Commission created -- Composition -- Appointment -- Terms -- Organization -- Vacancies -- Quorum -- Compensation -- Staff.**

- (1) There is created a state Elected Official and Judicial Compensation Commission comprised of six members appointed as follows:
  - (a) one member appointed by the governor;
  - (b) one member appointed by the president of the Senate;
  - (c) one member appointed by the speaker of the House of Representatives;
  - (d) two members appointed by the other three appointed members; and
  - (e) one member appointed by the State Bar Commission.
- (2)
  - (a) Except as required by Subsection (2)(b), all persons appointed to the commission shall serve four-year terms or until their successors are duly appointed and qualified.
  - (b) Notwithstanding the requirements of Subsection (2)(a), the appointing authority shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.
- (3)
  - (a) The commission shall select a chair and a vice chair from opposite political parties at its first meeting.
  - (b) Four members of the commission constitute a quorum.
  - (c) The action of a majority of a quorum constitutes the action of the commission.
- (4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
- (5) An individual may not serve as a member of the commission if the individual is a member or employee of the legislative branch, judicial branch, or executive branch.
- (6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
  - (a) Section 63A-3-106;
  - (b) Section 63A-3-107; and
  - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (7) A nonpartisan office of the Legislature, selected by the president of the Senate and the speaker of the House of Representatives, shall staff the commission.

Amended by Chapter 57, 2025 General Session

**67-8-5 Duties of commission -- Salary recommendations.**

- (1) The commission shall recommend to the Legislature:
  - (a) salaries for the governor, the lieutenant governor, the attorney general, the state auditor, and the state treasurer; and
  - (b) salaries for justices of the Supreme Court and judges of the constitutional and statutory courts of record.
- (2) In making the salary recommendations described in Subsection (1), the commission shall:
  - (a) consider:
    - (i) the education and experience required for the position;
    - (ii) the responsibility required of the position;
    - (iii) whether the position requires accountability for funds or staff;
    - (iv) wages paid for other comparable public and private employment in the state and in other similarly situated states;
    - (v) any increase in the Consumer Price Index since the commission's last recommendations; and
    - (vi) any other factors typically used to make similar recommendations;
  - (b) consult with the Division of Human Resource Management; and
  - (c) for the salary recommendations described in Subsection (1)(b), consult with the Judicial Council.
- (3) No later than January 2, the commission shall submit an annual electronic report to the Executive Appropriations Committee, the president of the Senate, the speaker of the House of Representatives, and the governor that:
  - (a) briefly summarizes the commission's activities during the previous calendar year; and
  - (b) provides any recommendations to modify the salaries of:
    - (i) the governor, lieutenant governor, attorney general, state auditor, or state treasurer; or
    - (ii) the justices of the Supreme Court or judges of the constitutional and statutory courts of record.
- (4) The Judicial Council shall cooperate with the commission in providing information relevant to the duties of the commission.

Amended by Chapter 344, 2021 General Session

## **Chapter 9 Deputy Officers**

**67-9-1 Appointment -- Powers.**

- (1) The state auditor, the state treasurer, the attorney general, and the superintendent of public instruction may each appoint a deputy, who may, during the absence or disability of the principal, perform all the duties pertaining to the office, except those required of the principal as a member of any board.
- (2) The principal shall be answerable for the neglect or misconduct in office of the principal's deputy, and may require the deputy to obtain crime insurance.
- (3) The principal:

- (a) shall, if the principal appoints a deputy:
  - (i) make the appointment in writing; and
  - (ii) file the written appointment with the lieutenant governor;
- (b) may revoke the appointment of the principal's deputy, at will, in writing; and
- (c) shall, if the principal revokes appointment of a deputy, file the written revocation with the lieutenant governor.

Amended by Chapter 76, 2025 General Session  
Amended by Chapter 302, 2025 General Session

#### **67-9-2 Crime insurance.**

Where a deputy of any state officer is required to obtain crime insurance, the state shall pay the premium.

Amended by Chapter 76, 2025 General Session

## **Chapter 10 Reports of Officers**

#### **67-10-1 Reports of expenditures of appropriations -- Exceptions.**

Excepting the governor and the state auditor, all state officers, state boards and commissions, and the officers of all state institutions, to whom and for which appropriations are made, shall submit to the Division of Archives a detailed statement, under oath, of the manner in which all appropriations for their respective departments and institutions have been expended.

Amended by Chapter 67, 1984 General Session

#### **67-10-2 Accounts to be closed at end of fiscal year.**

All officers who are required by law to report annually or biennially to the Legislature or governor shall close their accounts at the end of the fiscal year, and as soon thereafter as practicable shall prepare and compile the material for their respective reports.

Amended by Chapter 153, 1957 General Session

## **Chapter 11 Federal Social Security**

#### **67-11-1 Declaration of policy.**

In order to extend to employees of the state and its political subdivisions and to the dependents and survivors of such employees, the basic protection accorded to others by the old-age and survivors insurance system embodied in the Social Security Act, it is hereby declared to be the policy of the Legislature, subject to the limitations of this act, that such steps be taken as to provide such protection to employees of the state and its political subdivisions within the limitations permitted under the Social Security Act.



Amended by Chapter 184, 1973 General Session

**67-11-2 Definitions.**

For the purposes of this chapter:

- (1) "Employee" includes an elective or appointive officer or employee of a state or political subdivision thereof.
- (2) "Employment" means any service performed by an employee in the employ of the state, or any political subdivision thereof, for such employer, except:
  - (a) service which in the absence of an agreement entered into under this chapter would constitute "employment" as defined in the Social Security Act;
  - (b) service which under the Social Security Act may not be included in an agreement between the state and federal security administrator entered into under this chapter;
  - (c) services of an emergency nature, service in any class or classes of positions the compensation for which is on a fee basis:
    - (i) performed by employees of the state; or
    - (ii) if so provided in the plan submitted under Section 67-11-5, by a political subdivision of the state, by an employee of such subdivision;
  - (d) services performed by students employed by a public school, college, or university at which they are enrolled and which they are attending on a full-time basis;
  - (e) part-time services performed by election workers, i.e., judges of election and registrars; or
  - (f) services performed by voluntary firemen, except when such services are prescheduled for a specific period of duty.
- (3) "Federal Insurance Contributions Act" means Chapter 21 of the Internal Revenue Code as such Code may be amended.
- (4) "Federal security administrator" includes any individual to whom the federal security administrator has delegated any of his functions under the Social Security Act with respect to coverage under such act of employees of states and their political subdivisions.
- (5) "Political subdivision" includes:
  - (a) an instrumentality of the state, of one or more of its political subdivisions, or of the state and one or more of its political subdivisions, including leagues or associations of the instrumentality, if:
    - (i) the instrumentality is a juristic entity that is legally separate and distinct from the state or subdivision; and
    - (ii) the instrumentality's employees are not, due to their relation to the instrumentality, employees of the state or subdivision; and
  - (b) special districts, special service districts, or authorities created by the Legislature or local governments, including mosquito abatement districts, sewer or water districts, and libraries.
- (6) "Sick pay" means payments made to employees on account of sickness or accident disability under a sick leave plan of the type outlined in 42 U.S.C. Secs. 409(a)(2) and (3) of the Social Security Act.
- (7) "Social Security Act" means the Act of Congress approved August 14, 1935, Chapter 531, 49 Stat. 620, officially cited as the "Social Security Act," (including regulations and requirements issued pursuant thereto), as such act has been and may from time to time be amended.
- (8) "State agency" means the Division of Finance, referred to herein as the state agency.
- (9) "Wages" means all remuneration for employment as defined herein, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include "sick pay" as that term is defined in this section and shall not include that part of

such remuneration which, even if it were for "employment" within the meaning of the Federal Insurance Contributions Act, would not constitute "wages" within the meaning of that act.

Amended by Chapter 16, 2023 General Session

**67-11-3 General powers of state agency and interstate instrumentalities.**

- (1) The state agency, with the approval of the governor, is hereby authorized to enter on behalf of the state into an agreement with the federal security administrator, consistent with the terms and provisions of this chapter, for the purpose of extending the benefits of the federal old-age and survivors insurance system to employees of the state or any political subdivision thereof with respect to services specified in such agreement which constitute "employment" as defined in Section 67-11-2. Such agreement may contain such provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration, and other appropriate provisions as the state agency and federal security administrator shall agree upon. However, except as may be otherwise required or permitted by or under the Social Security Act as to the services to be covered, such agreement shall provide in effect that:
  - (a) Benefits will be provided for employees whose services are covered by the agreement (and their dependents and survivors) on the same basis as though such services constituted employment within the meaning of Title II of the Social Security Act.
  - (b) The state will pay to the secretary of the treasury of the United States, at such time or times as may be prescribed under the Social Security Act, contributions with respect to wages, as defined in Section 67-11-2, equal to the sum of the taxes which would be imposed by Sections 1400 and 1410 of the Federal Insurance Contributions Act if the services covered by the agreement constituted employment within the meaning of that act.
  - (c) The agreement shall be effective with respect to services in employment covered by the agreement performed after a date specified therein but in no event may it be effective with respect to any such services performed prior to January 1, 1951, and in no case prior to an employment period with reference to which said insurance coverage can be obtained under the provisions of the Social Security Act.
  - (d) All services which constitute employment as defined in Section 67-11-2 and are performed in the employ of the state by employees of the state, shall be covered by the agreement.
  - (e) All services which constitute employment as defined in Section 67-11-2, are performed in the employ of a political subdivision of the state, and are covered by a plan which is in conformity with the terms of the agreement and has been approved by the state agency under Section 67-11-5, shall be covered by the agreement.
- (2) Any instrumentality jointly created by this state and any other state or states is hereby authorized, upon the granting of like authority by such other state or states:
  - (a) to enter into an agreement with the federal security administrator whereby the benefits of the federal old-age and survivors insurance system shall be extended to employees of such instrumentality;
  - (b) to require its employees to pay, and for that purpose to deduct from their wages, contributions equal to the amounts which they would be required to pay under Subsection 67-11-4(1) if they were covered by an agreement made pursuant to Subsection (1); and
  - (c) to make payments to the secretary of the treasury in accordance with such agreement, including payments from its own funds, and otherwise to comply with such agreements.
- (3) An agreement shall, to the extent practicable, be consistent with the terms and provisions of Subsections (1) and (2) and other provisions of this chapter.

Amended by Chapter 306, 2007 General Session

**67-11-4 Payments into Contribution Fund by employees.**

- (1) Every employee of the state whose services are covered by an agreement entered into under Section 67-11-3 shall be required to pay contributions for the period of such coverage, into the Contribution Fund established by Section 67-11-6 with respect to wages, as defined in Section 67-11-2, equal to the amount of tax which would be imposed by Section 1400 of the Federal Insurance Contributions Act if such services constituted employment within the meaning of that act. This liability shall arise in consideration of the employee's retention in the service of the state, or his entry upon such service, after February 14, 1951.
- (2) The contribution imposed by this section shall be collected by the authorized state fiscal officers by deducting the amount of the contribution from wages as and when paid, but failure to make such deduction shall not relieve the employee from liability for such contribution.
- (3) If more or less than the correct amount of the contribution imposed by this section is paid or deducted with respect to any remuneration, proper adjustments, or refund if adjustment is impracticable, shall be made, without interest, in such manner and at such times as the state agency shall prescribe.

Amended by Chapter 306, 2007 General Session

**67-11-5 Political subdivisions of state -- Planned participation.**

- (1) Each political subdivision of the state is hereby authorized to submit for approval by the state agency a plan for extending the benefits of Title II of the Social Security Act, in conformity with applicable provisions of such act, to employees of such political subdivision. Each such plan and any amendment thereof shall be approved by the state agency if it finds that such plan, or such plan as amended, is in conformity with such requirements as are provided in rules of the state agency, except that no such plan shall be approved unless:
  - (a) it is in conformity with the requirements of the Social Security Act and with the agreement entered into under Section 67-11-3;
  - (b) it provides that all services which constitute employment as defined in Section 67-11-2 and are performed in the employ of the political subdivision by employees thereof, shall be covered by the plan;
  - (c) it specifies the source or sources from which the funds necessary to make the payments required by Subsections (3) and (4) are expected to be derived and contains reasonable assurance that such sources will be adequate for such purpose;
  - (d) it provides for such methods of administration of the plan by the political subdivision as are found by the state agency to be necessary for the proper and efficient administration of the plan;
  - (e) it provides that the political subdivision will make such reports, in such form and containing such information, as the state agency may from time to time require, and comply with such provisions as the state agency or the federal security administrator may from time to time find necessary to assure the correctness and verification of such reports; and
  - (f) it authorizes the state agency to terminate the plan in its entirety, in the discretion of the state agency, if it finds that there has been a failure to comply substantially with any provision contained in such plan, such termination to take effect at the expiration of such notice and on such conditions as may be provided by rules of the state agency and may be consistent with the provisions of the Social Security Act.

- (2) The state agency shall not finally refuse to approve a plan submitted by a political subdivision under Subsection (1), and shall not terminate an approved plan, without reasonable notice and opportunity for hearing to the political subdivision affected thereby.
- (3)
  - (a) Each political subdivision as to which a plan has been approved under this section shall pay into the Contribution Fund, with respect to wages, as defined in Section 67-11-2, at such time or times as the state agency may by rule prescribe, contributions in the amounts and at the rates specified in the applicable agreement entered into by the state agency under Section 67-11-3.
  - (b) Each political subdivision required to make payment under Subsection (3)(a) shall, in consideration of the employees retention in, or entry upon, employment after enactment of this chapter, impose upon each of its employees, as to services which are covered by an approved plan, a contribution with respect to his wages, as defined in Section 67-11-2, not exceeding the amount of tax which would be imposed by Section 1400 of the Federal Insurance Contributions Act if such services constituted employment within the meaning of that act, and to deduct the amount of such contribution from his wages as and when paid. Contributions so collected shall be paid into the Contribution Fund in partial discharge of the liability of such political subdivision or instrumentality under this Subsection (3). Failure to deduct such contribution shall not relieve the employee or employer of liability therefor.
- (4) Delinquent payments due under Subsection (3) may, with interest at the rate of 4% per annum, be recovered by action in a court of competent jurisdiction against the political subdivision liable therefor or may, at the request of the state agency, be deducted from any other money payable to such subdivision by any department, agency, or fund of the state.

Amended by Chapter 306, 2007 General Session

**67-11-6 Establishment of Contribution Fund -- Powers, authority, and jurisdiction of state agency -- Withdrawals from fund -- Payments into United States Treasury.**

- (1) There is hereby established a special fund to be known as the Contribution Fund. Such fund shall consist of and there shall be deposited in such fund:
  - (a) all contributions, interests, and penalties collected under Sections 67-11-4 and 67-11-5;
  - (b) all money appropriated thereto under this chapter;
  - (c) any property or securities and earnings thereof acquired through the use of money belonging to the fund;
  - (d) interest earned upon any money in the fund; and
  - (e) all sums recovered upon the bond of the custodian or otherwise for losses sustained by the fund and all other money received from the fund from any other source.
- (2) All money in the fund shall be mingled and undivided. Subject to the provisions of this chapter, the state agency is vested with full power, authority, and jurisdiction over the fund, including all money and property or securities belonging to it, and may perform any and all acts whether or not specifically designated, which are necessary to the administration of the fund and are consistent with the provisions of this chapter.
- (3) The Contribution Fund shall be established and held separate and apart from any other funds or money of the state and shall be used and administered exclusively for the purpose of this chapter. Withdrawals from such fund shall be made for, and solely for:
  - (a) payment of amounts required to be paid to the secretary of the treasury of the United States pursuant to an agreement entered into under Section 67-11-3;
  - (b) payment of refunds provided for in Subsection 67-11-4(3); and

- (c) refunds for overpayments, not otherwise adjustable, made by a political subdivision or instrumentality.
- (4) The custodian of the Contribution Fund shall pay to the secretary of the treasury of the United States from the Contribution Fund such amounts and at such time or times as may be directed by the state agency in accordance with any agreement entered into under Section 67-11-3 and the Social Security Act.
- (5) The treasurer of the state shall be ex officio treasurer and custodian of the Contribution Fund and shall administer the fund in accordance with the provisions of this chapter and the directions of the state agency and shall pay all warrants drawn upon it in accordance with the provisions of this section and with such rules as the state agency may prescribe pursuant thereto.
- (6) In addition to the contributions collected and paid into the Contribution Fund under Sections 67-11-4 and 67-11-5, there shall be paid into the Contribution Fund such sums as are found to be necessary in order to make the payments to the secretary of the treasury which the state is obligated to make pursuant to an agreement entered into under Section 67-11-3. The amount which is necessary to make the portion of such additional payment to the secretary of the treasury which is attributable to the coverage of the employees of each department, commission, council, branch, agency, or other division or organization of the state which employs persons covered by the Social Security Act pursuant to an agreement entered into under Section 67-11-3 shall be paid from the funds which have been appropriated, authorized, or allocated to such department.

Amended by Chapter 306, 2007 General Session

**67-11-8 Utah State Social Security Agency -- Creation of -- Powers and prerogatives of.**

- (1) The state finance commission is hereby designated as the state agency authorized to administer this act, and for that purpose shall be known as the Utah State Social Security Agency.
- (2) The state agency shall have power to establish and maintain records, employ such personnel, accountants and attorneys and to do all things necessary to the proper administration of this act. It shall make and publish such rules and regulations, not inconsistent with the provisions of this act, as it finds necessary or appropriate to the efficient administration of the functions with which it is charged under this act.

No Change Since 1953

**67-11-9 Studies by state agency.**

The state agency shall make studies concerning the problem of old-age and survivors insurance protection for employees of the state and local governments and their instrumentalities and concerning the operation of agreements made and plans approved under this chapter.

Amended by Chapter 135, 1997 General Session

**Chapter 16**  
**Utah Public Officers' and Employees' Ethics Act**

### **67-16-1 Short title.**

This chapter is known as the "Utah Public Officers' and Employees' Ethics Act."

Amended by Chapter 147, 1989 General Session

### **67-16-3 Definitions.**

As used in this chapter:

- (1) "Agency" means:
  - (a) any department, division, agency, commission, board, council, committee, authority, or any other institution of the state or any of its political subdivisions; or
  - (b) an association as defined in Section 53G-7-1101.
- (2) "Agency head" means the chief executive or administrative officer of any agency.
- (3) "Assist" means to act, or offer or agree to act, in such a way as to help, represent, aid, advise, furnish information to, or otherwise provide assistance to a person or business entity, believing that such action is of help, aid, advice, or assistance to such person or business entity and with the intent to assist such person or business entity.
- (4) "Business entity" means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.
- (5) "Compensation" means anything of economic value, however designated, which is paid, loaned, granted, given, donated, or transferred to any person or business entity by anyone other than the governmental employer for or in consideration of personal services, materials, property, or any other thing whatsoever.
- (6) "Controlled, private, or protected information" means information classified as controlled, private, or protected in Title 63G, Chapter 2, Government Records Access and Management Act, or other applicable provision of law.
- (7) "Filing clerk" means:
  - (a) the special district clerk, for a special public officer who holds an office on:
    - (i) the board of trustees of a special district; or
    - (ii) the governing body of a special service district; or
  - (b) the chief administrative officer, for a special public officer who holds an office on a local school board.
- (8) "Governing body" means:
  - (a) the legislative body of a county, city, or town that establishes a special service district, if an administrative control board has not been appointed under Section 17D-1-301; or
  - (b) the administrative control board of a special service district, if the administrative control board has been appointed under Section 17D-1-301.
- (9) "Governmental action" means any action on the part of the state, a political subdivision, or an agency, including:
  - (a) any decision, determination, finding, ruling, or order; and
  - (b) any grant, payment, award, license, contract, subcontract, transaction, decision, sanction, or approval, or the denial thereof, or the failure to act in respect to.
- (10) "Improper disclosure" means disclosure of controlled, private, or protected information to any person who does not have the right to receive the information.
- (11) "Legislative employee" means any officer or employee of the Legislature, or any committee of the Legislature, who is appointed or employed to serve, either with or without compensation, for an aggregate of less than 800 hours during any period of 365 days. "Legislative employee" does not include legislators.

- (12) "Legislator" means a member or member-elect of either house of the Legislature of the state of Utah.
- (13) "Political subdivision" means a district, school district, or any other political subdivision of the state that is not an agency, but does not include a municipality or a county.
- (14)
- (a) "Public employee" means a person who is not a public officer who is employed on a full-time, part-time, or contract basis by:
- (i) the state;
  - (ii) a political subdivision of the state; or
  - (iii) an association as defined in Section 53G-7-1101.
- (b) "Public employee" does not include legislators or legislative employees.
- (15)
- (a) "Public officer" means an elected or appointed officer:
- (i)
    - (A) of the state;
    - (B) of a political subdivision of the state; or
    - (C) an association as defined in Section 53G-7-1101; and
  - (ii) who occupies a policymaking post.
- (b) "Public officer" includes a special public officer.
- (c) "Public officer" does not include legislators or legislative employees.
- (16) "Special public officer" means a public officer who is an elected or appointed member of:
- (a) the board of trustees of a special district or the governing body of a special service district, if the special district or the special service district has an annual budget that is equal to or exceeds 10 times the revenue and expenditure amount described in Subsection 51-2a-201(1); or
  - (b) a local school board.
- (17) "State" means the state of Utah.
- (18) "Substantial interest" means the ownership, either legally or equitably, by an individual, the individual's spouse, or the individual's minor children, of at least 10% of the outstanding capital stock of a corporation or a 10% interest in any other business entity.

Amended by Chapter 443, 2024 General Session

**67-16-4 Improperly disclosing or using private, controlled, or protected information -- Using position to secure privileges or exemptions -- Accepting employment that would impair independence of judgment or ethical performance -- Exception.**

- (1) Except as provided in Subsection (3), it is an offense for a public officer, public employee, or legislator to:
- (a) accept employment or engage in any business or professional activity that he might reasonably expect would require or induce him to improperly disclose controlled information that he has gained by reason of his official position;
  - (b) disclose or improperly use controlled, private, or protected information acquired by reason of his official position or in the course of official duties in order to further substantially the officer's or employee's personal economic interest or to secure special privileges or exemptions for himself or others;
  - (c) use or attempt to use his official position to:
    - (i) further substantially the officer's or employee's personal economic interest; or
    - (ii) secure special privileges or exemptions for himself or others;

- (d) accept other employment that he might expect would impair his independence of judgment in the performance of his public duties; or
  - (e) accept other employment that he might expect would interfere with the ethical performance of his public duties.
- (2)
- (a) Subsection (1) does not apply to the provision of education-related services to public school students by public education employees acting outside their regular employment.
  - (b) The conduct referred to in Subsection (2)(a) is subject to Section 53E-3-512.
- (3) This section does not apply to a public officer, public employee, or legislator who engages in conduct that constitutes a violation of this section to the extent that the public officer, public employee, or legislator is chargeable, for the same conduct, under Section 63G-6a-2404 or Section 76-8-105.

Amended by Chapter 415, 2018 General Session

**67-16-5 Accepting gift, compensation, or loan -- When prohibited.**

- (1) As used in this section, "economic benefit tantamount to a gift" includes:
- (a) a loan at an interest rate that is substantially lower than the commercial rate then currently prevalent for similar loans; and
  - (b) compensation received for private services rendered at a rate substantially exceeding the fair market value of the services.
- (2) Except as provided in Subsection (4), it is an offense for a public officer or public employee to knowingly receive, accept, take, seek, or solicit, directly or indirectly for himself or another a gift of substantial value or a substantial economic benefit tantamount to a gift:
- (a) that would tend improperly to influence a reasonable person in the person's position to depart from the faithful and impartial discharge of the person's public duties;
  - (b) that the public officer or public employee knows or that a reasonable person in that position should know under the circumstances is primarily for the purpose of rewarding the public officer or public employee for official action taken; or
  - (c) if the public officer or public employee recently has been, is now, or in the near future may be involved in any governmental action directly affecting the donor or lender, unless a disclosure of the gift, compensation, or loan and other relevant information has been made in the manner provided in Section 67-16-6.
- (3) Subsection (2) does not apply to:
- (a) an occasional nonpecuniary gift, having a value of not in excess of \$50;
  - (b) an award publicly presented in recognition of public services;
  - (c) any bona fide loan made in the ordinary course of business; or
  - (d) a political campaign contribution.
- (4) This section does not apply to a public officer or public employee who engages in conduct that constitutes a violation of this section to the extent that the public officer or public employee is chargeable, for the same conduct, under Section 63G-6a-2404 or Section 76-8-105.

Amended by Chapter 196, 2014 General Session

**67-16-5.3 Requiring donation, payment, or service to government agency in exchange for approval -- When prohibited.**

- (1) Except as provided in Subsection (3), it is an offense for a public officer, public employee, or legislator to demand from any person as a condition of granting any application or request for



a permit, approval, or other authorization, that the person donate personal property, money, or services to any agency.

- (2)
- (a) Subsection (1) does not apply to any donation of property, funds, or services to an agency that is:
- (i) expressly required by statute, ordinance, or agency rule;
  - (ii) mutually agreed to between the applicant and the entity issuing the permit, approval, or other authorization;
  - (iii) made voluntarily by the applicant; or
  - (iv) a condition of a consent decree, settlement agreement, or other binding instrument entered into to resolve, in whole or in part, an actual or threatened agency enforcement action.
- (b) If a person donates property, funds, or services to an agency, the agency shall, as part of the permit or other written authorization:
- (i) identify that a donation has been made;
  - (ii) describe the donation;
  - (iii) certify, in writing, that the donation was voluntary; and
  - (iv) place that information in its files.
- (3) This section does not apply to a public officer, public employee, or legislator who engages in conduct that constitutes a violation of this section to the extent that the public officer, public employee, or legislator is chargeable, for the same conduct, under Section 63G-6a-2404 or Section 76-8-105.

Amended by Chapter 196, 2014 General Session

**67-16-5.6 Offering donation, payment, or service to government agency in exchange for approval -- When prohibited.**

- (1) Except as provided in Subsection (3), it is an offense for any person to donate or offer to donate personal property, money, or services to any agency on the condition that the agency or any other agency approve any application or request for a permit, approval, or other authorization.
- (2)
- (a) Subsection (1) does not apply to any donation of property, funds, or services to an agency that is:
- (i) otherwise expressly required by statute, ordinance, or agency rule;
  - (ii) mutually agreed to between the applicant and the entity issuing the permit, approval, or other authorization;
  - (iii) a condition of a consent decree, settlement agreement, or other binding instrument entered into to resolve, in whole or in part, an actual or threatened agency enforcement action; or
  - (iv) made without condition.
- (b) The person making the donation of property, funds, or services shall include with the donation a signed written statement certifying that the donation is made without condition.
- (c) The agency receiving the donation shall place the signed written statement in its files.
- (3) This section does not apply to a person who engages in conduct that constitutes a violation of this section to the extent that the person is chargeable, for the same conduct, under Section 63G-6a-2404 or Section 76-8-105.

Amended by Chapter 196, 2014 General Session

**67-16-6 Receiving compensation for assistance in transaction involving an agency -- Sworn statement.**

- (1) Except as provided in Subsection (6), it is an offense for a public officer or public employee to receive or agree to receive compensation for assisting any person or business entity in any transaction involving an agency unless the public officer or public employee files a sworn, written statement disclosing the information described in Subsection (2) with:
  - (a) the head of the officer or employee's own agency;
  - (b) the agency head of the agency with which the transaction is being conducted;
  - (c) the state attorney general; and
  - (d) for a public officer who is a special public officer, the filing clerk of the board of trustees, governing body, or local school board, as applicable, of which the special public officer is an elected or appointed member.
- (2) The sworn statement described in Subsection (1) shall contain:
  - (a) the name and address of the public officer or public employee involved;
  - (b) the name of the public officer's or public employee's agency;
  - (c) the name and address of the person or business entity being or to be assisted; and
  - (d) a brief description of:
    - (i) the transaction as to which service is rendered or is to be rendered; and
    - (ii) the nature of the service performed or to be performed.
- (3) A public officer or public employee shall file the sworn statement described in Subsection (1) on or before the earlier of:
  - (a) 10 days after the date on which the public officer or public employee and the person or business entity being assisted enter into an agreement; or
  - (b) the public officer's or public employee's receipt of compensation.
- (4) In accordance with Subsection (1)(d), a special public officer shall file the sworn statement with the filing clerk on or before the earlier of the deadlines described in Subsections (3)(a) and (b).
- (5) A filing clerk who receives the sworn statement described in Subsection (1) shall:
  - (a) post a copy of the special public officer's sworn statement on, as applicable, the special district's, special service district's, or school district's website; and
  - (b) ensure that the sworn statement remains posted on the website described in Subsection (5)
    - (a) until the special public officer leaves office.
- (6) The sworn statement described in Subsection (1) is public information and shall be available for examination by the public.
- (7) This section does not apply to a public officer or public employee who engages in conduct that constitutes a violation of this section to the extent that the public officer or public employee is chargeable, for the same conduct, under Section 63G-6a-2404 or Section 76-8-105.

Amended by Chapter 443, 2024 General Session

**67-16-7 Disclosure of substantial interest in regulated business -- Exceptions.**

- (1) Except as provided in Subsection (5), a public officer or public employee who is an officer, director, agent, employee, or owner of a substantial interest in any business entity that is subject to the regulation of the agency by which the public officer or public employee is employed shall disclose a position held in the entity and the precise nature and value of the public officer's or public employee's interest in the entity:
  - (a) upon first becoming a public officer or public employee;
  - (b) whenever the public officer's or public employee's position in the business entity changes significantly; and

- (c) if the value of the public officer's or public employee's interest in the entity increases significantly.
- (2) The disclosure required under Subsection (1) shall be made in a sworn statement filed with:
  - (a) for a public officer or a public employee of the state, the attorney general;
  - (b) for a public officer or a public employee of a political subdivision, the chief governing body of the political subdivision;
  - (c) the head of the agency with which the public officer or public employee is affiliated;
  - (d) for a public employee, the public employee's immediate supervisor; and
  - (e) for a public officer who is a special public officer, the filing clerk of the board or trustees, governing body, or local school board, as applicable, of which the special public officer is an elected or appointed member.
- (3) A filing clerk who receives the sworn statement described in Subsection (1) shall:
  - (a) post a copy of the special public officer's sworn statement on, as applicable, the special district's, special service district's, or school district's website; and
  - (b) ensure that the sworn statement remains posted on the website described in Subsection (3) (a) until the special public officer leaves office.
- (4)
  - (a) This section does not apply to instances where the total value of the substantial interest does not exceed \$5,000.
  - (b) A life insurance policy or an annuity is not required to be considered in determining the value of a substantial interest under this section.
- (5) A disclosure made under this section is a public record and a person with whom a disclosure is filed under Subsection (2) shall make the disclosure available for public inspection.
- (6) A public officer is not required to file a disclosure under this section if the public officer files a disclosure under Section 20A-11-1604.

Amended by Chapter 443, 2024 General Session

**67-16-8 Participation in transaction involving business as to which public officer or employee has interest -- Exceptions.**

- (1) A public officer or public employee may not, in the public officer's or public employee's official capacity, participate in, or receive compensation as a result of, a transaction between the state or a state agency and a business entity of which the public officer or public employee is an officer, director, agent, employee, or owner of a substantial interest, unless the public officer or public employee has disclosed the public officer's or public employee's relationship to the business entity in accordance with Section 67-16-7 or 20A-11-1604.
- (2) A concession contract between an agency, political subdivision, or the state and a certified professional golf association member who is a public employee or officer does not violate the provisions of Subsection (1) or Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act.

Amended by Chapter 59, 2018 General Session

**67-16-9 Conflict of interests prohibited.**

No public officer or public employee shall have personal investments in any business entity which will create a substantial conflict between the public officer's or public employee's private interests and the public officer's or public employee's public duties.

Amended by Chapter 365, 2024 General Session

**67-16-10 Inducing others to violate chapter.**

No person shall induce or seek to induce any public officer or public employee to violate any of the provisions of this chapter.

Amended by Chapter 147, 1989 General Session

**67-16-11 Applicability of provisions.**

- (1) As used in this section, "government position" means the position of a legislator, public officer, or public employee.
- (2) The provisions of this chapter:
  - (a) apply to all public officers and public employees; and
  - (b) do not apply to a conflict of interest that exists between two or more government positions held by the same individual, unless the conflict of interest is also due to a personal interest of the individual that is not shared by the general public.

Amended by Chapter 360, 2016 General Session

**67-16-12 Penalties for violation -- Removal from office or dismissal from employment.**

In addition to any penalty contained in any other provision of law:

- (1) any public officer or public employee who knowingly and intentionally violates this chapter, with the exception of Sections 67-16-6 and 67-16-7, shall be dismissed from employment or removed from office as provided by law, rule, or policy within the agency; and
- (2) any public officer, public employee, or person who knowingly and intentionally violates this chapter, with the exception of Sections 67-16-6 and 67-16-7, shall be punished as follows:
  - (a) as a felony of the second degree if the total value of the compensation, conflict of interest, or assistance exceeds \$1,000;
  - (b) as a felony of the third degree if:
    - (i) the total value of the compensation, conflict of interest, or assistance is more than \$250 but not more than \$1,000; or
    - (ii) the public officer or public employee has been twice before convicted of violation of this chapter and the value of the conflict of interest, compensation, or assistance was \$250 or less;
  - (c) as a class A misdemeanor if the value of the compensation or assistance was more than \$100 but does not exceed \$250; or
  - (d) as a class B misdemeanor if the value of the compensation or assistance was \$100 or less.

Amended by Chapter 108, 2000 General Session

**67-16-14 Unethical transactions -- Duty to dismiss officer or employee -- Right to rescind or void contract.**

If any transaction is entered into in violation of Section 67-16-6, 67-16-7, or 67-16-8, the state, political subdivision, or agency involved:

- (1) shall dismiss the public officer or public employee who knowingly and intentionally violates this chapter from employment or office as provided by law; and

- (2) may rescind or void any contract or subcontract entered into in respect to such transaction without returning any part of the consideration that the state, political subdivision, or agency has received.

Amended by Chapter 147, 1989 General Session

**67-16-15 Complaint -- Political Subdivisions Ethics Review Commission.**

A person may file a complaint for an alleged violation of this chapter by a political subdivision officer or employee in accordance with Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission.

Amended by Chapter 461, 2018 General Session

**67-16-16 Special public officer -- Annual conflict of interest disclosure statement -- Exception -- Penalties.**

- (1) Except as provided in Subsection (7), a special public officer shall, no sooner than January 1 and no later than January 31 of each year during which the special public officer holds elected or appointed office:
  - (a) prepare a written conflict of interest disclosure statement that contains a response to each item of information described in Subsection 20A-11-1604(6); and
  - (b) submit the written disclosure statement to the filing clerk.
- (2)
  - (a) No later than 10 business days after the day on which a special public officer submits the written disclosure statement described in Subsection (1) to the filing clerk, the filing clerk shall:
    - (i) post an electronic copy of the written disclosure statement on, as applicable, the special district's, special service district's, or school district's website; and
    - (ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (2)(a)(i).
  - (b) The filing clerk shall ensure that the special public officer's written disclosure statement remains posted on the website described in Subsection (2)(a)(i) until the special public officer leaves office.
- (3) The filing clerk shall take the action described in Subsection (4) if:
  - (a) a special public officer fails to timely submit a written disclosure statement; or
  - (b) a submitted written disclosure statement does not comply with the requirements of Subsection 20A-11-1604(6).
- (4) If a circumstance described in Subsection (3) occurs, the filing clerk shall, within five days after the day on which the filing clerk determines that a violation occurred, notify the special public officer of the violation and direct the special public officer to submit an amended report correcting the problem.
- (5)
  - (a) It is unlawful for a special public officer to fail to submit or amend a written disclosure statement within seven days after the day on which the special public officer receives the notice described in Subsection (4).
  - (b) A special public officer who violates Subsection (5)(a) is guilty of a class B misdemeanor.
  - (c) The filing clerk shall report a violation of Subsection (5)(a) to the attorney general.
  - (d) In addition to the criminal penalty described in Subsection (5)(b), the filing clerk shall impose a civil fine of \$100 against a special public officer who violates Subsection (5)(a).

- (6) The filing clerk shall deposit a fine collected under this section into the, as applicable, special district's, special service district's, or school district's general fund as a dedicated credit to pay for the costs of administering this section.
- (7) For a special public officer who is also a state legislator, a member of the legislative body of a county or municipality, or who is otherwise required to make the written disclosure statement described in Subsection (1) under another provision of law:
  - (a) Subsection (1) does not apply; and
  - (b) the filing clerk shall, instead:
    - (i) post an electronic link on the website described in Subsection (2)(a)(i) to the written disclosure statement the special public officer made in the special public officer's capacity as:
      - (A) a state legislator, under Title 20A, Chapter 11, Part 16, Conflict of Interest Disclosures;
      - (B) an elected officer of a county, under Section 17-16a-13;
      - (C) an elected officer of a municipality, under Section 10-3-1313; or
      - (D) an individual who is otherwise required to make the written disclosure statement described in Subsection (1) under another provision of law; and
    - (ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (7)(b)(i).

Enacted by Chapter 443, 2024 General Session

## **Chapter 18**

### **Employees' Personnel Files**

#### **67-18-1 Right to examine and copy documents.**

It is the purpose of this act to provide public employees in the state with the right to examine and make copies of documents in their own personnel files.

Enacted by Chapter 259, 1977 General Session

#### **67-18-2 Definitions.**

As used in this act:

- (1) "Employer" means the state and its political subdivisions.
- (2) "Employee" means any person employed by the employer.
- (3) "Representative" means any person designated in writing by an employee to represent such employee in a grievance or other employment matter.

Enacted by Chapter 259, 1977 General Session

#### **67-18-3 Written request for production of file.**

Upon receipt of a written request from an employee to examine such employee's personnel file, the employer shall produce the file for inspection and copying.

Enacted by Chapter 259, 1977 General Session

#### **67-18-4 Cost of copying.**

The cost of copying shall be paid by the employee.

Enacted by Chapter 259, 1977 General Session

**67-18-5 Confidential, private, or protected documents excepted.**

The right to examine and copy documents in an employee's personnel file is subject to access provisions in Title 63G, Chapter 2, Government Records Access and Management Act.

Amended by Chapter 382, 2008 General Session

## **Chapter 19a Grievance Procedures**

### **Part 1 General Provisions**

**67-19a-101 Definitions.**

As used in this chapter:

- (1) "Abusive conduct" means the same as that term is defined in Section 67-26-102.
- (2) "Administrator" means the person appointed under Section 67-19a-201 to head the Career Service Review Office.
- (3) "Career service employee" means a person employed in career service as defined in Section 63A-17-102.
- (4) "Division" means the Division of Human Resource Management.
- (5) "Employer" means the state of Utah and all supervisory personnel vested with the authority to implement and administer the policies of an agency.
- (6) "Excusable neglect" means harmless error, mistake, inadvertence, surprise, a failure to discover evidence that, through due diligence, could not have been discovered in time to meet the applicable time period, misrepresentation or misconduct by the employer, or any other reason justifying equitable relief.
- (7) "Grievance" means:
  - (a) a complaint by a career service employee concerning any matter touching upon the relationship between the employee and the employer;
  - (b) any dispute between a career service employee and the employer;
  - (c) a complaint by a reporting employee that a public entity has engaged in retaliatory action against the reporting employee ; and
  - (d) a complaint that the employer subjected the employee to conditions that a reasonable person would consider intolerable, including abusive conduct.
- (8) "Office" means the Career Service Review Office created under Section 67-19a-201.
- (9) "Public entity" means the same as that term is defined in Section 67-21-2.
- (10) "Reporting employee" means an employee of a public entity who alleges that the public entity engaged in retaliatory action against the employee.
- (11) "Retaliatory action" means to do any of the following to an employee in violation of Section 67-21-3:
  - (a) dismiss the employee;
  - (b) reduce the employee's compensation;

- (c) fail to increase the employee's compensation by an amount that the employee is otherwise entitled to or was promised;
  - (d) fail to promote the employee if the employee would have otherwise been promoted; or
  - (e) threaten to take an action described in Subsections (11)(a) through (d).
- (12) "Supervisor" means the person:
- (a) to whom an employee reports; or
  - (b) who assigns and oversees an employee's work.

Amended by Chapter 169, 2022 General Session

Amended by Chapter 274, 2022 General Session

**67-19a-102 Work environment policy.**

As recognized and provided in Section 67-26-201, it is the policy of the state of Utah to provide and maintain a work environment free from abusive conduct.

Amended by Chapter 155, 2020 General Session

## **Part 2**

### **Career Service Review Office**

**67-19a-201 Career Service Review Office created -- Appointment of an administrator -- Reporting -- Qualifications.**

- (1) There is created a Career Service Review Office.
- (2)
- (a) The governor shall appoint, with the advice and consent of the Senate, an administrator of the office.
  - (b) The administrator shall have demonstrated an ability to administer personnel policies in performing the duties specified in this chapter.

Amended by Chapter 373, 2020 General Session

**67-19a-202 Powers -- Scope of authority.**

- (1) The office shall serve as the final administrative body to review a grievance from a career service employee and an agency of a decision regarding:
- (a) a dismissal;
  - (b) a demotion;
  - (c) a suspension;
  - (d) a reduction in force;
  - (e) a dispute concerning abandonment of position;
  - (f) a wage grievance if an employee is not placed within the salary range of the employee's current position;
  - (g) a violation of a rule adopted under Title 63A, Chapter 17, Utah State Personnel Management Act; or
  - (h) except as provided by Subsection (5), equitable administration of the following benefits:
    - (i) long-term disability insurance;
    - (ii) medical insurance;



- (iii) dental insurance;
  - (iv) post-retirement health insurance;
  - (v) post-retirement life insurance;
  - (vi) life insurance;
  - (vii) defined contribution retirement;
  - (viii) defined benefit retirement; and
  - (ix) a leave benefit.
- (2) The office shall serve as the final administrative body to review a grievance by a reporting employee alleging retaliatory action.
- (3) The office shall serve as the final administrative body to review, without an evidentiary hearing, the findings of an abusive conduct investigation described in Section 67-26-202 of a state executive branch agency employee.
- (4) The office may not take jurisdiction of a matter that an employer has not had an opportunity to address.
- (5) The office may not review or take action on:
- (a) a personnel matter not listed in Subsections (1) through (3);
  - (b) a personnel matter listed in Subsections (1) through (3) that alleges discrimination or retaliation related to a claim of discrimination that is a violation of a state or federal law for which review and action by the office is preempted by state or federal law; or
  - (c) a personnel matter related to a claim for which an administrative review process is provided by statute and administered by:
    - (i) the Utah State Retirement Systems under Title 49, Utah State Retirement and Insurance Benefit Act;
    - (ii) the Public Employees' Benefit and Insurance Program under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or
    - (iii) the Public Employees' Long-Term Disability Program under Title 49, Chapter 21, Public Employees' Long-Term Disability Act.
- (6) The time limits established in this chapter supersede the procedural time limits established in Title 63G, Chapter 4, Administrative Procedures Act.

Amended by Chapter 209, 2022 General Session

**67-19a-203 Rulemaking authority.**

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the administrator may make rules governing:
- (a) definitions of terms, phrases, and words used in the grievance process established by this chapter;
  - (b) what matters constitute excusable neglect for purposes of the waiver of time limits established by this chapter;
  - (c) the application for and service of subpoenas, the service and filing of pleadings, and the issuance of rulings, orders, determinations, summary judgments, transcripts, and other legal documents necessary in grievance proceedings;
  - (d) the use, calling, attendance, participation, and fees of witnesses in grievance proceedings;
  - (e) continuances of grievance proceedings;
  - (f) procedures in hearings, unless governed by Title 63G, Chapter 4, Administrative Procedures Act;
  - (g) the presence of media representatives at grievance proceedings;

- (h) procedures for sealing files or making data pertaining to a grievance unavailable to the public; and
  - (i) motions that will assist the parties in meeting the 150-day time limit.
- (2) The rule made under Subsection (1)(i) shall:
- (a) prohibit a party from filing a dispositive motion under Utah Rules of Civil Procedure, Rule 12(b)(6) or Rule 56 before an evidentiary hearing; and
  - (b) authorize a party to file a motion before an evidentiary hearing to:
    - (i) dismiss for lack of authority to review the grievance under Utah Rules of Civil Procedure, Rule 12(b)(1) or Rule 12(b)(2); or
    - (ii) limit the introduction of evidence.

Amended by Chapter 249, 2010 General Session

**67-19a-204 Administrator -- Powers.**

- (1) In conjunction with any inquiry, investigation, hearing, or other proceeding, the administrator may:
- (a) administer an oath;
  - (b) certify an official act;
  - (c) subpoena a witness, document, and other evidence; and
  - (d) grant a continuance as provided by rule.
- (2)
- (a) The administrator may:
    - (i) assign qualified, impartial hearing officers on a per case basis to adjudicate matters under the authority of the office;
    - (ii) subpoena witnesses, documents, and other evidence in conjunction with any inquiry, investigation, hearing, or other proceeding;
    - (iii) upon motion made by a party or person to whom the subpoena is directed and upon notice to the party who issued the subpoena, quash or modify the subpoena if it is unreasonable, requires an excessive number of witnesses, or requests evidence not relevant to any matter in issue; and
    - (iv) act as a hearing officer if the aggrieved employee consents.
  - (b) In selecting and assigning hearing officers under authority of this section, the administrator shall appoint hearing officers that have demonstrated by education, training, and experience the ability to adjudicate and resolve personnel administration disputes by applying employee relations principles within a large, public work force.

Amended by Chapter 339, 2015 General Session

**67-19a-205 Employment transfer.**

At any point during the grievance process, the employer and the employee may mutually agree to a transfer of the employee to another equivalent position, if and to the extent that such a position is available, in accordance with division rules for transfer and reassignment.

Amended by Chapter 344, 2021 General Session

**Part 3**

## Grievance Procedures

### **67-19a-301 Charges submissible under grievance procedure.**

- (1) This grievance procedure may only be used by career service employees who are not:
  - (a) public applicants for a position with the state's work force;
  - (b) public employees of the state's political subdivisions;
  - (c) public employees covered by other grievance procedures; or
  - (d) employees of state institutions of higher education.
- (2)
  - (a) Whenever a question or dispute exists as to whether an employee is qualified to use this grievance procedure, the administrator shall resolve the question or dispute.
  - (b) The administrator's decision under Subsection (2)(a) is reviewable only by the Court of Appeals.
- (3) Any career service employee may submit a grievance based upon a claim or charge of injustice or oppression, including dismissal from employment, resulting from an act, occurrence, omission, or condition for solution through the grievance procedures set forth in this chapter.
- (4) A reporting employee who desires to bring an administrative claim of retaliatory action shall use the grievance procedure described in Section 67-19a-402.5.
- (5) A career service employee who desires to bring a grievance described in Subsection 67-19a-202(1) shall use and follow the grievance procedure described in Part 3, Grievance Procedures, and Part 4, Procedural Steps to Be Followed by Aggrieved Employee.
- (6) An employee who desires to initiate an administrative review challenging the findings of an abusive conduct investigation shall use and follow the procedure described in Section 67-19a-501.

Amended by Chapter 390, 2018 General Session

### **67-19a-302 Levels of procedure.**

- (1) The administration of all grievances under Subsection 67-19a-202(1) occurs on the following four levels:
  - (a) Level 1 - the supervisor;
  - (b) Level 2 - the division director or the director's designee;
  - (c) Level 3 - the agency director or the director's designee; and
  - (d) Level 4 - the office.
- (2)
  - (a) Except as provided in Subsection (2)(b), Section 67-19a-402.5, and Section 67-19a-501, and subject to applicable time limits as provided in this chapter, an employee:
    - (i) shall file a grievance at the lowest level described in Subsection (1) that has not already issued a decision, taken action, or declined to address the subject of the grievance; and
    - (ii) may proceed for further review of a grievance in accordance with Section 67-19a-402.
  - (b) If a supervisor or division director is a subject of a grievance or complaint, the employee may proceed directly to Level 2 or Level 3, respectively.
  - (c) An employee may not file a grievance that asks the same manager or a lower-level manager to reconsider a previously made decision.
- (3) A career service employee may advance all grievances to Level 3.
- (4) In accordance with Section 67-19a-402.5 and subject to Section 67-21-4, a reporting employee may file a grievance alleging retaliatory action directly at Level 4.

Amended by Chapter 209, 2022 General Session

**67-19a-303 Employees' rights in grievance procedure.**

- (1) For the purpose of submitting and advancing a grievance, a career service employee, or a reporting employee alleging retaliatory action, may:
  - (a) obtain assistance by a representative of the employee's choice to act as an advocate at any level of the grievance procedure;
  - (b) request a reasonable amount of time during work hours to confer with the representative and prepare the grievance; and
  - (c) call other employees as witnesses at a grievance hearing.
- (2) The state shall allow employees to attend and testify at the grievance hearing as witnesses if the employee has given reasonable advance notice to the employee's immediate supervisor.
- (3) No person may take any reprisals against a career service employee or a reporting employee for:
  - (a) use of or participation in a grievance procedure described in this chapter; or
  - (b) representing and providing assistance to a career service employee as an advocate in accordance with Subsection (1)(a).
- (4) If the individual acting as an advocate for a career service employee under Subsection (1)(a) is a state employee, the individual may not receive state compensation for the time the employee spends in the course of that representation unless the individual uses approved leave during that time.
- (5)
  - (a) The employing agency of an employee who files a grievance may not place grievance forms, grievance materials, correspondence about the grievance, agency and division replies to the grievance, or other documents relating to the grievance in the employee's personnel file.
  - (b) The employing agency of an employee who files a grievance may place records of disciplinary action in the employee's personnel file.
  - (c) If any disciplinary action against an employee is rescinded through the grievance procedures described in this chapter, the agency and the Division of Human Resource Management shall remove the record of the disciplinary action from the employee's agency personnel file and central personnel file.
  - (d) An agency may maintain a separate grievance file relating to an employee's grievance, but shall discard the file after three years.

Amended by Chapter 344, 2021 General Session

**Part 4**  
**Procedural Steps to Be Followed by Aggrieved Employee**

**67-19a-401 Time limits for submission and advancement of grievance by aggrieved employee -- Voluntary termination of employment -- Group grievances.**

- (1) An aggrieved career service employee and the person to whom the grievance is directed may agree in writing to waive or extend grievance steps specified under Subsection 67-19a-402(1), (2), or (3) or the time limits specified for those grievance steps, as outlined in Section 67-19a-402.

- (2) Any writing made under Subsection (1) shall be submitted to the administrator.
- (3) Except as provided under Subsections (5) and (6), if the employee fails to advance the grievance to the next procedural step within the time limits established in this part:
  - (a) the employee waives the right to advance the grievance or to obtain judicial review of the grievance; and
  - (b) the grievance is considered to be settled based on the decision made at the last procedural step.
- (4) An employee may file a grievance for review under this chapter, except as provided in Subsections (5) and (6), if the employee submits the grievance within 10 working days after:
  - (a) the most recent event giving rise to the grievance; or
  - (b) the employee has knowledge of the most recent event giving rise to the grievance.
- (5)
  - (a) An employee may file with the office a motion for an enlargement of a time limit described in Subsection (4).
  - (b) In determining whether to grant a motion described in Subsection (5)(a), the office shall consider, giving reasonable deference to the employee, whether:
    - (i) the employee filed the motion before the time limit the employee seeks to enlarge; or
    - (ii) the enlargement is necessary to remedy the employee's excusable neglect.
- (6) The provisions of Subsections (3) and (4) do not apply if the employee meets the requirements for excusable neglect as that term is defined in Section 67-19a-101.
- (7)
  - (a) If several employees allege the same grievance, the employees may submit a group grievance by following the procedures and requirements of this chapter.
  - (b) In submitting a group grievance, each aggrieved employee shall sign the grievance.
  - (c) The administrator may not treat a group grievance as a class action, but may select one aggrieved employee's grievance and address that grievance as a test case.

Amended by Chapter 209, 2022 General Session

**67-19a-402 Procedural steps to be followed by aggrieved employee.**

- (1)
  - (a) Subject to the provisions and levels of procedure provided in Section 67-19a-302, a career service employee who has a grievance shall submit the grievance in writing to:
    - (i) the employee's supervisor; and
    - (ii) the administrator.
  - (b) Within five working days after receiving a written grievance, the employee's supervisor may issue a written decision on the grievance.
- (2)
  - (a) If the employee's supervisor fails to respond to the grievance within five working days or if the aggrieved employee is dissatisfied with the supervisor's written decision, the employee may advance the written grievance to the employee's agency or division director within 10 working days after the expiration of the period for response or receipt of the written decision, whichever is first.
  - (b) Within five working days after receiving the written grievance, the employee's agency or division director may issue a written response to the grievance stating the decision and the reasons for the decision.
- (3)

- (a) If the employee's agency or division director fails to respond to the grievance within five working days after its submission, or if the aggrieved employee is dissatisfied with the agency or division director's written decision, the employee may advance the written grievance to the employee's department head within 10 working days after the expiration of the period for decision or receipt of the written decision, whichever is first.
- (b) Within 10 working days after the employee's written grievance is submitted, the department head may issue a written response to the grievance stating the decision and the reasons for the decision.
- (c) The decision of the department head is final in all matters except those matters that the office may review under the authority of Part 3, Grievance Procedures.
- (4) If the written grievance submitted to the employee's department head meets the subject matter requirements of Section 67-19a-202 and if the employee's department head fails to respond to the grievance within 10 working days after submission, or if the aggrieved employee is dissatisfied with the department head's written decision, the employee may advance the written grievance to the administrator within 10 working days after the expiration of the period for decision or receipt of the written decision, whichever is first.

Amended by Chapter 390, 2018 General Session

**67-19a-402.5 Procedural steps to be followed by reporting employee alleging retaliatory action.**

- (1) A reporting employee who desires to assert an administrative grievance of retaliatory action:
  - (a) shall submit the grievance in writing within 30 days after the day on which the retaliatory action occurs;
  - (b) is not required to comply with Section 63G-7-402 to file the grievance; and
  - (c) is subject to the provisions of Section 67-21-4.
- (2)
  - (a) When a reporting employee files a grievance with the administrator under Subsection (1), the administrator shall initially determine:
    - (i) whether the reporting employee is entitled, under this chapter and Chapter 21, Utah Protection of Public Employees Act, to bring the grievance and use the grievance procedure;
    - (ii) whether the office has authority to review the grievance;
    - (iii) whether, if the alleged grievance were found to be true, the reporting employee would be entitled to relief under Subsection 67-21-3.5(2); and
    - (iv) whether the reporting employee has been directly harmed.
  - (b) To make the determinations described in Subsection (2)(a), the administrator may:
    - (i) hold an initial hearing, where the parties may present oral arguments, written arguments, or both; or
    - (ii) conduct an administrative review of the grievance.
- (3)
  - (a) If the administrator holds an initial hearing, the administrator shall issue a written decision within 15 days after the day on which the hearing is adjourned.
  - (b) If the administrator chooses to conduct an administrative review of the grievance, the administrator shall issue the written decision within 15 days after the day on which the administrator receives the grievance.
- (4)

- (a) If the administrator determines the office has authority to review the grievance, the administrator shall provide for an evidentiary hearing in accordance with Section 67-19a-404.
  - (b) The administrator may dismiss the grievance, without holding a hearing or taking evidence, if the administrator:
    - (i) finds that, even if the alleged grievance were found to be true, the reporting employee would not be entitled to relief under Subsection 67-21-3.5(2); and
    - (ii) provides the administrator's findings, in writing, to the reporting employee.
  - (c) The office shall comply with Chapter 21, Utah Protection of Public Employees Act, in taking action under this section.
- (5) A decision reached by the office in reviewing a retaliatory action grievance from a reporting employee may be appealed directly to the Utah Court of Appeals.
- (6)
- (a) Except as provided in Subsection (6)(b), an appellate court may award costs and attorney fees, accrued at the appellate court level, to a prevailing employee.
  - (b) A court may not order the office to pay costs or attorney fees under this section.

Amended by Chapter 390, 2018 General Session

**67-19a-403 Advancement of grievance to administrator -- Initial hearing.**

- (1) At any time after a career service employee submits a written grievance to the administrator under Subsection 67-19a-402(4), the administrator may attempt to settle the grievance informally by conference, conciliation, and persuasion with the employee and the agency.
- (2)
- (a) When an employee advances a grievance to the administrator under Subsection 67-19a-402(4), the administrator shall initially determine:
    - (i) whether the employee is a career service employee and is entitled to use the grievance system;
    - (ii) whether the office has authority to review the grievance; and
    - (iii) whether the employee has been directly harmed.
  - (b) In order to make the determinations required by Subsection (2)(a), the administrator may:
    - (i) hold an initial hearing, where the parties may present oral arguments, written arguments, or both; or
    - (ii) conduct an administrative review of the file.
- (3)
- (a) If the administrator holds an initial hearing, the administrator shall issue a written decision within 15 days after the hearing is adjourned.
  - (b) If the administrator chooses to conduct an administrative review of the file, the administrator shall issue the written decision within 15 days after the administrator receives the grievance.

Amended by Chapter 249, 2010 General Session

**67-19a-404 Evidentiary hearing.**

- (1) If the administrator determines that the office has authority to review the grievance, the administrator shall:
- (a) appoint a hearing officer to adjudicate the grievance; and
  - (b) set a date for the evidentiary hearing that is either:
    - (i) not later than 30 days after the date the administrator determines that the office has authority to review the grievance; or

- (ii) at a date:
  - (A) agreed upon by the parties and the administrator; and
  - (B) not greater than 150 days after the date the administrator determines that the office has authority to review the grievance.
- (2) After the date for the evidentiary hearing has been set, the administrator or assigned hearing officer may grant each party one extension of reasonable length for extraordinary circumstances as determined by the administrator or assigned hearing officer.
- (3) Notwithstanding Section 63G-4-205, and in order to accommodate the 150-day time limit, the administrator may only allow a motion for discovery for production of documents, records, and evidence under Utah Rules of Civil Procedure, Rule 34.

Amended by Chapter 249, 2010 General Session

**67-19a-405 Prehearing conference.**

- (1) The administrator may require the presence of each party, the representatives of each party, and other designated persons at a prehearing conference.
- (2) At the conference, the administrator may require the parties to:
  - (a) identify which allegations are admitted and which allegations are denied;
  - (b) submit a joint statement detailing:
    - (i) stipulated facts that are not in dispute;
    - (ii) the issues to be decided; and
    - (iii) applicable laws and rules;
  - (c) submit a list of witnesses, exhibits, and papers or other evidence that each party intends to offer as evidence; and
  - (d) confer in an effort to resolve or settle the grievance.
- (3) At the conclusion of the prehearing conference, the administrator may require the parties to prepare a written statement identifying:
  - (a) the items presented or agreed to under Subsection (2); and
  - (b) the issues remaining to be resolved by the hearing process.
- (4) The prehearing conference is informal and is not open to the public or press.

Enacted by Chapter 191, 1989 General Session

**67-19a-406 Procedural steps to be followed by aggrieved employee -- Hearing before hearing officer -- Evidentiary and procedural rules.**

- (1)
  - (a) The administrator shall record the hearing and preserve the record.
  - (b) The recording of the proceedings and all exhibits, briefs, motions, and pleadings received by the hearing officer are the official record of the proceeding.
- (2)
  - (a) The agency has the burden of proof in all grievances.
  - (b) The agency must prove the agency's case by substantial evidence.
- (3)
  - (a) The hearing officer shall issue a written decision within 20 working days after the hearing is adjourned.
  - (b) If the hearing officer does not issue a decision within 20 working days, the agency that is a party to the grievance is not liable for any claimed back wages or benefits after the date the decision is due.



- (4) The hearing officer may:
  - (a) not award attorney fees or costs to either party;
  - (b) close a hearing by complying with the procedures and requirements of Title 52, Chapter 4, Open and Public Meetings Act;
  - (c) seal the file and the evidence produced at the hearing if the evidence raises questions about an employee's character, professional competence, or physical or mental health;
  - (d) grant continuances according to rule; and
  - (e) decide a motion, an issue regarding discovery, or another issue in accordance with this chapter.
- (5)
  - (a) A hearing officer shall affirm, rescind, or modify agency action.
  - (b)
    - (i) If a hearing officer does not affirm agency action, the hearing officer shall order back pay and back benefits that the grievant would have received without the agency action.
    - (ii) An order under Subsection (5)(b)(i) shall include:
      - (A) reimbursement to the grievant for premiums that the grievant paid for benefits allowed under the Consolidated Omnibus Reconciliation Act of 1985; and
      - (B) an offset for any state paid benefits the grievant receives because of the agency action, including unemployment compensation benefits.
  - (c) In an order under Subsection (5)(b)(i), a hearing officer may not reduce the amount of back pay and benefits awarded a grievant because of income that the grievant earns during the grievance process.
- (6) An employee who files a grievance in accordance with this chapter may appeal a decision of the office directly to the Utah Court of Appeals in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

Amended by Chapter 127, 2018 General Session

Amended by Chapter 390, 2018 General Session

## **Part 5**

### **Abusive Conduct Administrative Review**

#### **67-19a-501 Procedural steps to be followed in an administrative review of an abusive conduct investigation.**

- (1) An employee of a state executive branch agency, as defined in Section 67-26-102, may, under Subsection 67-19a-202(3), initiate an administrative review of the findings of an abusive conduct investigation within 10 days after the day on which the employee receives notification of the investigative findings.
- (2)
  - (a) An employee bringing an administrative review of the findings described in Subsection (1) may file the request for the administrative review directly with the office.
  - (b) The request for administrative review may describe the reasons for the administrative review and include any submissions the employee desires to submit.
- (3)
  - (a) When an employee initiates the review described in Subsection (2) with the office:

- (i) the role of the administrative review is to review and rule upon the findings of the abusive conduct investigation; and
  - (ii) an evidentiary hearing is not required.
- (b) The division shall make the abusive conduct investigative file available for the office's in camera review.
- (c) The office may:
  - (i) request additional relevant documents from the division or the affected employee; and
  - (ii) interview the employee who initiated the administrative review and the investigators who conducted the investigation.
- (4)
  - (a) The office may overturn the findings of the abusive conduct investigation if the office determines that:
    - (i) the findings are not reasonable, rational, or sufficiently supported by the evidence; or
    - (ii) the facts on which the findings are based are inaccurate.
  - (b) The office may uphold the findings of the abusive conduct investigation if the office determines that:
    - (i) the findings are reasonable, rational, and sufficiently supported by the evidence; and
    - (ii) the facts on which the findings are based are accurate.
- (5)
  - (a) Within 30 days after the day on which an employee initiates an administrative review under this section, the office shall issue a notice stating whether the office upheld or overturned the investigative findings.
  - (b) The office's determination upon administrative review of the findings resulting from an abusive conduct investigation is final and not subject to appeal.
  - (c) The following are classified as protected under Title 63G, Chapter 2, Government Records Access and Management Act, and any other applicable confidentiality provisions:
    - (i) the request for administrative review and any accompanying documents;
    - (ii) documents that any party provides;
    - (iii) the contents of the administrative review file; and
    - (iv) the office's determination.

Amended by Chapter 344, 2021 General Session

## **Chapter 19d**

### **State Post-Retirement Benefits Trust Fund Act**

#### **Part 1**

#### **General Provisions**

#### **67-19d-102 Definitions.**

As used in this chapter:

- (1) "Board of trustees" or "board" means the board of trustees created in Section 67-19d-202.
- (2) "Income" means the revenues received by the state treasurer from investments of the trust fund principal.

- (3) "Trust fund" means the State Post-Retirement Benefits Trust Fund created by Section 67-19d-201.

Enacted by Chapter 99, 2007 General Session

## **Part 2**

### **Creation and Governance of the Post-Retirement Benefits Trust Fund**

#### **67-19d-201 Trust fund -- Creation -- Oversight -- Dissolution.**

- (1) There is created a post-retirement benefits trust fund entitled the "State Post-Retirement Benefits Trust Fund."
- (2) The trust fund consists of:
  - (a) revenue provided from an ongoing labor additive as defined in Subsection 67-19d-202(2)(g);
  - (b) appropriations made to the fund by the Legislature, if any;
  - (c) income as defined in Section 67-19d-102; and
  - (d) other revenues received from other sources.
- (3) The Division of Finance shall account for the receipt and expenditures of trust fund money.
- (4)
  - (a) The state treasurer shall invest trust fund money by following the procedures and requirements of Part 3, Trust Fund Investments.
  - (b)
    - (i) The trust fund shall earn interest.
    - (ii) The state treasurer shall deposit all interest or other income earned from investment of the trust fund back into the trust fund.
- (5) The board of trustees created in Section 67-19d-202 may expend money from the trust fund for:
  - (a) the employer portion of the costs of the programs established in Sections 63A-17-505 through 63A-17-508; and
  - (b) reasonable administrative costs that the board of trustees incurs in performing their duties as trustees of the trust fund.
- (6) The board of trustees shall ensure that:
  - (a) money deposited into the trust fund is irrevocable and is expended only for the employer portion of the costs of post-retirement benefits;
  - (b) assets of the trust fund are dedicated to providing benefits to retirees and their beneficiaries according to the terms of the post-retirement benefit plans established by statute and rule; and
  - (c) creditors of the board of trustees and of employers liable for the post-retirement benefits may not seize, attach, or otherwise obtain assets of the trust fund.
- (7) When all of the liabilities for which the trust fund was created are paid, the Division of Finance shall transfer any assets remaining in the state trust fund into the appropriate fund.

Amended by Chapter 344, 2021 General Session

#### **67-19d-201.5 Elected Official Post-Retirement Benefits Trust Fund -- Creation -- Oversight -- Dissolution.**

- (1) There is created the "Elected Official Post-Retirement Benefits Trust Fund."
- (2) The Elected Official Post-Retirement Benefits Trust Fund consists of:

- (a) appropriations made to the fund by the Legislature for the purpose of funding the post-retirement benefits in Section 49-20-404;
  - (b) revenues received by the state treasurer from the investment of the Elected Official Post-Retirement Benefits Trust Fund; and
  - (c) other revenues received from other sources.
- (3) The Division of Finance shall account for the receipt and expenditures of money in the Elected Official Post-Retirement Benefits Trust Fund.
- (4)
- (a) Except as provided in Subsection (4)(c), the state treasurer shall invest the Elected Official Post-Retirement Benefits Trust Fund money by following the same procedures and requirements for the investment of the State Post-Retirement Benefits Trust Fund in Part 3, Trust Fund Investments.
  - (b)
    - (i) The Elected Official Post-Retirement Benefits Trust Fund shall earn interest.
    - (ii) The state treasurer shall deposit all interest or other income earned from investment of the Elected Official Post-Retirement Benefits Trust Fund back into the Elected Official Post-Retirement Benefits Trust Fund.
  - (c) The Elected Official Post-Retirement Benefits Trust Fund is exempt from Title 51, Chapter 7, State Money Management Act.
- (5) The board of trustees created in Section 67-19d-202 may expend money from the Elected Official Post-Retirement Benefits Trust Fund for:
- (a) the employer portion of the cost of the program established in Section 49-20-404; and
  - (b) reasonable administrative costs that the board of trustees incurs in performing its duties as trustees of the Elected Official Post-Retirement Benefits Trust Fund.
- (6) The board of trustees shall ensure that:
- (a) money deposited into the Elected Official Post-Retirement Benefits Trust Fund is irrevocable and is expended only for the employer portion of the costs of post-retirement benefits under Section 49-20-404; and
  - (b) creditors of the board of trustees and of employers liable for the post-retirement benefits may not seize, attach, or otherwise obtain assets of the Elected Official Post-Retirement Benefits Trust Fund.
- (7) When all of the liabilities for which the Elected Official Post-Retirement Benefits Trust Fund was created are paid, the Division of Finance shall transfer any assets remaining in the Elected Official Post-Retirement Benefits Trust Fund into the appropriate fund.

Enacted by Chapter 376, 2012 General Session

**67-19d-202 Board of trustees of the State Post-Retirement Benefits Trust Fund and the Elected Official Post-Retirement Benefits Trust Fund.**

- (1)
- (a) There is created a board of trustees of the State Post-Retirement Benefits Trust Fund and the Elected Official Post-Retirement Benefits Trust Fund composed of three members:
    - (i) the state treasurer or designee;
    - (ii) the director of the Division of Finance or designee; and
    - (iii) the executive director of the Governor's Office of Planning and Budget or designee.
  - (b) The state treasurer is chair of the board.
  - (c) Three members of the board are a quorum.

- (d) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
  - (i) Section 63A-3-106;
  - (ii) Section 63A-3-107; and
  - (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (e)
  - (i) Except as provided in Subsection (1)(e)(ii), the state treasurer shall staff the board of trustees.
  - (ii) The Division of Finance shall provide accounting services for the trust fund.
- (2) The board shall:
  - (a) on behalf of the state, act as trustee of the State Post-Retirement Benefits Trust Fund created under Section 67-19d-201 and the Elected Official Post-Retirement Benefits Trust Fund created under Section 67-19d-201.5 and exercise the state's fiduciary responsibilities;
  - (b) meet at least twice per year;
  - (c) review and approve all policies, projections, rules, criteria, procedures, forms, standards, performance goals, and actuarial reports;
  - (d) review and approve the budget for each trust fund described under Subsection (2)(a);
  - (e) review financial records for each trust fund described under Subsection (2)(a), including trust fund receipts, expenditures, and investments;
  - (f) commission and obtain actuarial studies of the liabilities for each trust fund described under Subsection (2)(a);
  - (g) for purposes of the State Post-Retirement Benefits Trust Fund, establish labor additive rates to charge all federal, state, and other programs to cover:
    - (i) the annual required contribution as determined by actuary; and
    - (ii) the administrative expenses of the trust fund; and
  - (h) do any other things necessary to perform the state's fiduciary obligations under each trust fund described under Subsection (2)(a).
- (3) The attorney general shall:
  - (a) act as legal counsel and provide legal representation to the board of trustees; and
  - (b) attend, or direct an attorney from the Office of the Attorney General to attend, each meeting of the board of trustees.

Amended by Chapter 382, 2021 General Session

### **Part 3**

### **Trust Fund Investments**

#### **67-19d-301 Investment of State Post-Retirement Benefits Trust Fund.**

- (1) The state treasurer shall invest the assets of the State Post-Retirement Benefits Trust Fund created under Section 67-19d-201 and the Elected Official Post-Retirement Benefits Trust Fund created under Section 67-19d-201.5 with the primary goal of providing for the stability, income, and growth of the principal.
- (2) Nothing in this section requires a specific outcome in investing.
- (3) The state treasurer may deduct any administrative costs incurred in managing trust fund assets from earnings before distributing them.
- (4)

- (a) The state treasurer may employ professional asset managers to assist in the investment of assets of the trust fund.
- (b) The treasurer may only provide compensation to asset managers from earnings generated by the trust fund's investments.

Amended by Chapter 376, 2012 General Session

**67-19d-302 State treasurer to follow "prudent investor" rule -- Standard of care.**

- (1) The state treasurer shall invest and manage the trust fund assets as a prudent investor would, by:
  - (a) considering the purposes, terms, distribution requirements, and other circumstances of the trust fund; and
  - (b) exercising reasonable care, skill, and caution in order to meet the standard of care of a prudent investor.
- (2) In determining whether or not the state treasurer has met the standard of care of a prudent investor, the judge or finder of fact shall:
  - (a) consider the state treasurer's actions in light of the facts and circumstances existing at the time of the investment decision or action, and not by hindsight; and
  - (b) evaluate the state treasurer's investment and management decisions respecting individual assets:
    - (i) not in isolation, but in the context of a trust fund portfolio as a whole; and
    - (ii) as a part of an overall investment strategy that has risk and return objectives reasonably suited to the trust fund.

Enacted by Chapter 99, 2007 General Session

**Chapter 19f**  
**State Employees' Annual Leave Trust Fund Act**

**Part 1**  
**General Provisions**

**67-19f-102 Definitions.**

As used in this chapter:

- (1) "Annual leave II" means the same as that term is defined in Section 63A-17-510.
- (2) "Board of trustees" or "board" means the board of trustees created in Section 67-19f-202.
- (3) "Income" means the revenues received by the state treasurer from investments of the trust fund principal.
- (4) "Trust fund" means the State Employees' Annual Leave Trust Fund created in Section 67-19f-201.

Amended by Chapter 344, 2021 General Session

**Part 2**

## Oversight and Board of Trustees

### **67-19f-201 State Employees Annual Leave Trust Fund -- Creation -- Oversight -- Dissolution.**

- (1) There is created a trust fund entitled the "State Employees' Annual Leave Trust Fund."
- (2) The trust fund consists of:
  - (a) ongoing revenue provided from a state agency set aside for accrued annual leave II required under Section 63A-17-510;
  - (b) appropriations made to the trust fund by the Legislature, if any;
  - (c) transfers from the termination pool described in Subsection 63A-17-510(6) made by the Division of Finance to the trust fund for annual leave liabilities accrued before the change date established under Section 63A-17-510;
  - (d) income; and
  - (e) revenue received from other sources.
- (3)
  - (a) The Division of Finance shall account for the receipt and expenditures of trust fund money.
  - (b) The Division of Finance shall make the necessary adjustments to the amount of set aside costs required under Subsection 63A-17-510(4)(a) to provide that upon the trust fund's accrual of funding equal to 10% of the annual leave liability, year-end trust fund balances remain equal to at least 10% of the total state employee annual leave liability.
- (4)
  - (a) The state treasurer shall invest trust fund money by following the procedures and requirements of Part 3, Investment of Trust Funds.
  - (b)
    - (i) The trust fund shall earn interest.
    - (ii) The state treasurer shall deposit all interest or other income earned from investment of the trust fund back into the trust fund.
- (5) The board of trustees created in Section 67-19f-202 may expend money from the trust fund for:
  - (a) reimbursement to the employer of the costs paid to the trust fund in accordance with Section 63A-17-510 as annual leave II is used by an employee;
  - (b) payments based on accrued annual leave and on accrued annual leave II that are made upon termination of an employee;
  - (c) refunds for overpayments; and
  - (d) reasonable administrative costs that the board of trustees incurs in performing its duties as trustee of the trust fund.
- (6) The board of trustees shall ensure that:
  - (a) money deposited into the trust fund is irrevocable and is expended only for the costs described in Subsection (5); and
  - (b) assets of the trust fund are dedicated to providing annual leave and annual leave II established by statute and rule.
- (7) A creditor of the board of trustees or a state agency liable for annual leave benefits may not seize, attach, or otherwise obtain assets of the trust fund.

Amended by Chapter 534, 2023 General Session

### **67-19f-202 Board of trustees of the State Employees' Annual Leave Trust Fund.**

- (1)

- (a) There is created a board of trustees of the State Employees' Annual Leave Trust Fund composed of the following three members:
  - (i) the state treasurer or the state treasurer's designee;
  - (ii) the director of the Division of Finance or the director's designee; and
  - (iii) the executive director of the Governor's Office of Planning and Budget or the executive director's designee.
- (b) The state treasurer is chair of the board.
- (c) Three members of the board is a quorum.
- (d) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:
  - (i) Section 63A-3-106;
  - (ii) Section 63A-3-107; and
  - (iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.
- (e)
  - (i) Except as provided in Subsection (1)(e)(ii), the state treasurer shall staff the board of trustees.
  - (ii) The Division of Finance shall provide accounting services for the trust fund.
- (2) The board shall:
  - (a) on behalf of the state, act as trustee of the trust fund created under Section 67-19f-201 and exercise the state's fiduciary responsibilities;
  - (b) meet at least twice per year;
  - (c) review and approve the policies, projections, rules, criteria, procedures, forms, standards, performance goals, and actuarial reports for the trust fund;
  - (d) review and approve the budget for the trust fund;
  - (e) review financial records for the trust fund, including trust fund receipts, expenditures, and investments; and
  - (f) do any other things necessary to perform the state's fiduciary obligations under the trust fund.
- (3) The board may:
  - (a) commission and obtain actuarial studies of the liabilities for the trust fund; and
  - (b) for purposes of the trust fund, establish labor additive rates to charge for the administrative expenses of the trust fund.
- (4) The attorney general shall:
  - (a) act as legal counsel and provide legal representation to the board of trustees; and
  - (b) attend, or direct an attorney from the Office of the Attorney General to attend, each meeting of the board of trustees.

Amended by Chapter 382, 2021 General Session

### **Part 3**

#### **Investment of Trust Funds**

##### **67-19f-301 Investment of State Employees' Annual Leave Program II Trust Fund.**

- (1) The state treasurer shall invest the assets of the trust fund with the primary goal of providing for the stability, income, and growth of the principal.
- (2) Nothing in this section requires a specific outcome in investing.



- (3) The state treasurer may deduct any administrative costs incurred in managing trust fund assets from earnings before distributing the trust fund assets.
- (4)
  - (a) The state treasurer may employ professional asset managers to assist in the investment of assets of the trust fund.
  - (b) The treasurer may only provide compensation to asset managers from earnings generated by the trust fund's investments.

Enacted by Chapter 437, 2014 General Session

**67-19f-302 State treasurer to follow "prudent investor" rule -- Standard of care.**

- (1) The state treasurer shall invest and manage the trust fund assets as a prudent investor would, by:
  - (a) considering the purposes, terms, distribution requirements, and other circumstances of the trust fund; and
  - (b) exercising reasonable care, skill, and caution in order to meet the standard of care of a prudent investor.
- (2) In determining whether the state treasurer has met the standard of care of a prudent investor, the judge or finder of fact shall:
  - (a) consider the state treasurer's actions in light of the facts and circumstances existing at the time of the investment decision or action, and not by hindsight; and
  - (b) evaluate the state treasurer's investment and management decisions respecting individual assets:
    - (i) not in isolation, but in the context of the trust fund portfolio as a whole; and
    - (ii) as a part of an overall investment strategy that has risk and return objectives reasonably suited to the trust fund.

Enacted by Chapter 437, 2014 General Session

## **Chapter 20**

### **Volunteer Government Workers Act**

**67-20-1 Short title.**

This chapter is known as the "Volunteer Government Workers Act."

Amended by Chapter 136, 1986 General Session

**67-20-2 Definitions.**

As used in this chapter:

- (1) "Agency" means:
  - (a) a department, institution, office, college, university, authority, division, board, bureau, commission, council, or other agency of the state;
  - (b) a county, city, town, school district, or special improvement or taxing district; or
  - (c) any other political subdivision.

- (2) "Compensatory service worker" means a person who performs a public service with or without compensation for an agency as a condition or part of the person's:
- (a) incarceration;
  - (b) plea;
  - (c) sentence;
  - (d) diversion;
  - (e) probation; or
  - (f) parole.
- (3) "Emergency medical service volunteer" means an individual who:
- (a) provides services as a volunteer under the supervision of a supervising agency or government officer; and
  - (b) at the time the individual provides the services described in Subsection (3)(a), is:
    - (i) an emergency medical technician volunteer, a paramedic volunteer, an ambulance volunteer, a volunteer firefighter, or another volunteer provider of emergency medical services; and
    - (ii) acting in the capacity of a volunteer described in Subsection (3)(b)(i).
- (4) "FLSA aggregate amount" means, except as otherwise required by the United States Department of Labor, the aggregate amount of nominal fees that a supervising agency may pay a volunteer, generally not exceeding 20% of the total compensation that the supervising agency would pay a full-time employee providing the same services as the volunteer.
- (5) "IRS aggregate amount" means the fixed or determinable income aggregate amount described in 26 C.F.R. Sec. 1.6041-1(a)(1)(i)(A).
- (6) "Nominal fee" means a fee described in 29 C.F.R. Sec. 553.106(e).
- (7) "Reasonable benefits" includes, in accordance with 29 C.F.R. Sec. 553.106, liability insurance, health insurance, life insurance, disability insurance, workers' compensation, a pension plan, a length of service award, personal property tax relief, and utility bill discounts or credits.
- (8)
- (a) "Volunteer" means an individual who donates service without pay or other compensation except the following, as approved by the supervising agency:
    - (i) expenses actually and reasonably incurred;
    - (ii) a stipend for future higher education expenses, awarded from the National Service Trust under 45 C.F.R. Secs. 2526.10 and 2527.10;
    - (iii) costs for attending classes, conferences, or association meetings related to services provided by a volunteer, including:
      - (A) tuition;
      - (B) costs for books, supplies, or other training materials; and
      - (C) travel, housing, and meals, in accordance with travel policies of the supervising agency;
    - (iv) a nominal fee below the FLSA aggregate amount for a volunteer described in 29 C.F.R. Sec. 553.106, or a stipend below the IRS aggregate amount for all other volunteers, for:
      - (A) emergency volunteers, including emergency medical service volunteers, volunteer safety officers, and volunteer search and rescue team members; or
      - (B) non-emergency volunteers, including senior program volunteers and community event volunteers;
    - (v) as it relates to a volunteer described in 29 C.F.R. Sec. 553.106, reasonable benefits;
    - (vi)
      - (A) health benefits provided through the supervising agency; or

- (B) for a volunteer who participates in the Volunteer Emergency Medical Service Personnel Health Insurance Program described in Section 53-2d-703, health insurance provided through the program;
- (vii) passthrough stipends or other compensation provided to volunteers through a federal or state program, including Americorp Seniors volunteers, consistent with 42 U.S.C. Sec. 5058;
- (viii) stipends or other compensation, below the IRS aggregate amount, provided to volunteers from any person;
- (ix) uniforms, identification, personal protective equipment, or safety equipment used by a volunteer only while volunteering for the supervising agency;
- (x) a nonpecuniary item not exceeding \$50 in value;
- (xi) nonpecuniary items, below the IRS aggregate amount, donated to the supervising agency with the express intent of benefitting a volunteer;
- (xii) gifts, not exceeding \$50 in value, provided as part of a volunteers appreciation event by the supervising agency; or
- (xiii) meals, not exceeding a value of \$50 per person based on anticipated attendance, provided to a volunteer by the supervising agency:
  - (A) as part of a volunteer appreciation event; or
  - (B) while the volunteer is engaged in providing volunteer service.
- (b) "Volunteer" does not include:
  - (i) a person participating in human subjects research to the extent that the participation is governed by federal law or regulation inconsistent with this chapter; or
  - (ii) a compensatory service worker.
- (c) "Volunteer" includes a juror or potential juror appearing in response to a summons for a trial jury or grand jury.
- (9) "Volunteer facilitator" means a business or nonprofit organization that, from individuals who have a relationship with the business or nonprofit organization, such as membership or employment, provides volunteers to an agency or facilitates volunteers volunteering with an agency.
- (10) "Volunteer safety officer" means an individual who:
  - (a) provides services as a volunteer under the supervision of an agency; and
  - (b) at the time the individual provides the services to the supervising agency described in Subsection (10)(a), the individual is:
    - (i) exercising peace officer authority as provided in Section 53-13-102; or
    - (ii) if the supervising agency described in Subsection (10)(a) is a fire department:
      - (A) on the rolls of the supervising agency as a firefighter;
      - (B) not regularly employed as a firefighter by the supervising agency; and
      - (C) acting in a capacity that includes the responsibility for the extinguishment of fire.
- (11) "Volunteer search and rescue team member" means an individual who:
  - (a) provides services as a volunteer under the supervision of a county sheriff; and
  - (b) at the time the individual provides the services to the county sheriff described in Subsection (11)(a), is:
    - (i) certified as a member of the county sheriff's search and rescue team; and
    - (ii) acting in the capacity of a member of the search and rescue team of the supervising county sheriff.

Amended by Chapter 25, 2023 General Session

Amended by Chapter 310, 2023 General Session

Amended by Chapter 330, 2023 General Session

**67-20-3 Purposes for which a volunteer is considered a government employee -- Limitations of liability for volunteer facilitators.**

- (1) Except as provided in Subsection (2) or (3), a volunteer is considered a government employee for purposes of:
  - (a) receiving workers' compensation medical benefits, which shall be the exclusive remedy for all injuries and occupational diseases as provided under Title 34A, Chapter 2, Workers' Compensation Act, and Chapter 3, Utah Occupational Disease Act;
  - (b) the operation of a motor vehicle or equipment if the volunteer is properly licensed and authorized to do so; and
  - (c) liability protection and indemnification normally afforded a paid government employee.
- (2)
  - (a) A supervising agency shall provide workers' compensation benefits for a volunteer safety officer as provided in Section 67-20-7.
  - (b) A volunteer safety officer is considered an employee of the supervising agency of the volunteer safety officer for purposes of Subsections (1)(b) and (c).
- (3)
  - (a) The county or a county sheriff that certifies and supervises a volunteer search and rescue team member shall provide workers' compensation benefits for the volunteer search and rescue team member as provided in Section 67-20-7.5.
  - (b) For purposes of Subsections (1)(b) and (c), a volunteer search and rescue team member is considered an employee of the county or the county sheriff that certifies and supervises the volunteer search and rescue team member.
- (4) A volunteer facilitator is immune from liability for damages or injuries arising out of or related to the volunteer service of a volunteer provided by the volunteer facilitator to an agency, unless:
  - (a) an action or omission of the volunteer facilitator is grossly negligent, not made in good faith, or made maliciously, and causes harm to a person or property; or
  - (b) the volunteer facilitator fails to exercise due diligence in determining the fitness of a volunteer to provide voluntary service to the agency under circumstances that make the volunteer facilitator's failure to exercise due diligence grossly negligent, not in good faith, or malicious.

Amended by Chapter 346, 2022 General Session

**67-20-4 Approval of volunteer.**

- (1) Except as approval is provided under Subsection (2), a volunteer may not donate any service to an agency unless the volunteer's services are approved by the chief executive of that agency or an authorized agency representative.
- (2) When the county sheriff determines that a search and rescue emergency situation exists that requires law enforcement action, the county sheriff may approve a volunteer who offers to donate a service for any law enforcement related activity conducted in response to the emergency situation.

Amended by Chapter 346, 2022 General Session

**67-20-6 Compensatory service worker workers' compensation medical benefits.**

A compensatory service worker is considered a government employee for purposes of receiving workers' compensation medical benefits, which shall be the exclusive remedy for all injuries and occupational diseases as provided under:

- (1) Title 34A, Chapter 2, Workers' Compensation Act; and
- (2) Title 34A, Chapter 3, Utah Occupational Disease Act.

Amended by Chapter 185, 2002 General Session

**67-20-7 Workers' compensation benefits for a volunteer safety officer.**

- (1) A volunteer safety officer is considered an employee of an agency that supervises the volunteer safety officer for the purpose of receiving workers' compensation benefits under:
  - (a) Title 34A, Chapter 2, Workers' Compensation Act; and
  - (b) Title 34A, Chapter 3, Utah Occupational Disease Act.
- (2)
  - (a) In accordance with Section 34A-2-105, the workers' compensation benefits described in Subsection (1) are the exclusive remedy against the supervising agency, or an officer, agent, or employee of the supervising agency, for all injuries and occupational diseases resulting from the volunteer safety officer's services for the supervising agency as a volunteer safety officer.
  - (b) For purposes of Subsection (2)(a), the supervising agency for whom the volunteer safety officer provides services as a volunteer safety officer is considered an employer of the volunteer safety officer.
- (3) To compute the workers' compensation benefits for a volunteer safety officer described in Subsection (1), the average weekly wage of the volunteer safety officer shall be the state's average weekly wage at the time of the industrial accident or occupational disease that is the basis for the volunteer safety officer's worker's compensation claim.

Amended by Chapter 36, 2002 General Session

Amended by Chapter 185, 2002 General Session

Amended by Chapter 250, 2002 General Session

**67-20-7.5 Workers' compensation benefits for a volunteer search and rescue team member.**

- (1) A volunteer search and rescue team member is considered an employee of the county of the county sheriff that certifies and supervises the volunteer search and rescue team member for the purpose of receiving workers' compensation benefits under:
  - (a) Title 34A, Chapter 2, Workers' Compensation Act; and
  - (b) Title 34A, Chapter 3, Utah Occupational Disease Act.
- (2)
  - (a) In accordance with Section 34A-2-105, the workers' compensation benefits described in Subsection (1) are the exclusive remedy against the county of the supervising county sheriff or an officer, agent, or employee of the county or supervising county sheriff, for the injuries and occupational diseases resulting from the volunteer search and rescue team member's services for the supervising county sheriff as a volunteer search and rescue team member.
  - (b) For purposes of Subsection (2)(a), the county of the supervising county sheriff for whom the volunteer search and rescue team member provides services as a volunteer search and rescue team member is considered an employer of the volunteer search and rescue team member.

- (3) To compute the workers' compensation benefits for a volunteer search and rescue team member described in Subsection (1), the average weekly wage of the volunteer search and rescue team member for purposes of the volunteer search and rescue team member's workers' compensation claim is the average weekly wage of an entry-level deputy sheriff employed by the supervising county sheriff at the time of the industrial accident or occupational disease.

Enacted by Chapter 248, 2011 General Session

**67-20-8 Volunteer experience credit.**

- (1) State agencies shall designate positions for which approved volunteer experience satisfies the job requirements for purposes of employment.
- (2) When evaluating applicants for those designated positions, state agencies shall consider documented approved volunteer experience in the same manner as similar paid employment.
- (3) The Division of Human Resource Management shall make statewide rules governing the:
  - (a) designation of volunteer positions; and
  - (b) a uniform process to document the approval, use, and hours worked by volunteers.

Amended by Chapter 344, 2021 General Session

## **Chapter 21**

### **Utah Protection of Public Employees Act**

**67-21-1 Short title.**

This chapter is known as the "Utah Protection of Public Employees Act."

Enacted by Chapter 216, 1985 General Session

**67-21-2 Definitions.**

As used in this chapter:

- (1) "Abuse of authority" means an arbitrary or capricious exercise of power that:
  - (a) adversely affects the employment rights of another; or
  - (b) results in personal gain to the person exercising the authority or to another person.
- (2) "Communicate" means a verbal, written, broadcast, or other communicated report.
- (3) "Damages" means general and special damages for injury or loss caused by each violation of this chapter.
- (4) "Employee" means a person who performs a service for wages or other remuneration under a contract of hire, written or oral, express or implied.
- (5)
  - (a) "Employer" means the public body or public entity that employs the employee.
  - (b) "Employer" includes an agent of an employer.
- (6) "Good faith" means that an employee acts with:
  - (a) subjective good faith; and
  - (b) the objective good faith of a reasonable employee.
- (7) "Gross mismanagement" means action or failure to act by a person, with respect to a person's responsibility, that causes significant harm or risk of harm to the mission of the public entity or public body that employs, or is managed or controlled by, the person.

- (8) "Judicial employee" means an employee of the judicial branch of state government.
- (9) "Legislative employee" means an employee of the legislative branch of state government.
- (10) "Political subdivision employee" means an employee of a political subdivision of the state.
- (11) "Public body" means any of the following:
  - (a) a state officer, employee, agency, department, division, bureau, board, commission, council, authority, educational institution, or any other body in the executive branch of state government;
  - (b) an agency, board, commission, council, institution member, or employee of the legislative branch of state government;
  - (c) a county, city, town, regional governing body, council, school district, special district, special service district, or municipal corporation, board, department, commission, council, agency, or any member or employee of them;
  - (d) any other body that is created by state or local authority, or that is primarily funded by or through state or local authority, or any member or employee of that body;
  - (e) a law enforcement agency or any member or employee of a law enforcement agency; and
  - (f) the judiciary and any member or employee of the judiciary.
- (12) "Public entity" means a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of the executive branch of state government.
- (13) "Public entity employee" means an employee of a public entity.
- (14) "Retaliatory action" means the same as that term is defined in Section 67-19a-101.
- (15) "State institution of higher education" means the same as that term is defined in Section 53B-3-102.
- (16) "Unethical conduct" means conduct that violates a provision of Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

Amended by Chapter 16, 2023 General Session

**67-21-3 Reporting of governmental waste or violations of law -- Employer action -- Exceptions.**

- (1)
  - (a) An employer may not take retaliatory action against an employee because the employee, or a person authorized to act on behalf of the employee, communicates in good faith:
    - (i) the waste or misuse of public funds, property, or manpower;
    - (ii) a violation or suspected violation of a law, rule, or regulation adopted under the law of this state, a political subdivision of this state, or any recognized entity of the United States; or
    - (iii) as it relates to a state government employer:
      - (A) gross mismanagement;
      - (B) abuse of authority; or
      - (C) unethical conduct.
  - (b) For purposes of Subsection (1)(a), an employee is presumed to have communicated in good faith if the employee gives written notice or otherwise formally communicates the conduct described in Subsection (1)(a) to:
    - (i) a person in authority over the person alleged to have engaged in the conduct described in Subsection (1)(a);
    - (ii) the attorney general's office;
    - (iii) law enforcement, if the conduct is criminal in nature;
    - (iv) if the employee is a public entity employee, public body employee, legislative employee, or a judicial employee:

- (A) the state auditor's office;
- (B) the president of the Senate;
- (C) the speaker of the House of Representatives;
- (D) the Office of Legislative Auditor General;
- (E) the governor's office;
- (F) the state court administrator; or
- (G) the Division of Finance;
- (v) if the employee is a public entity employee, but not an employee of a state institution of higher education, the director of the Division of Purchasing and General Services;
- (vi) if the employee is a political subdivision employee:
  - (A) the legislative body, or a member of the legislative body, of the political subdivision;
  - (B) the governing body, or a member of the governing body, of the political subdivision;
  - (C) the top executive of the political subdivision; or
  - (D) any government official with authority to audit the political subdivision or the applicable part of the political subdivision; or
- (vii) if the employee is an employee of a state institution of higher education:
  - (A) the Utah Board of Higher Education or a member of the Utah Board of Higher Education;
  - (B) the commissioner of higher education;
  - (C) the president of the state institution of higher education where the employee is employed; or
  - (D) the entity that conducts audits of the state institution of higher education where the employee is employed.
- (c) The presumption described in Subsection (1)(b) may be rebutted by showing that the employee knew or reasonably ought to have known that the report is malicious, false, or frivolous.
- (2) An employer may not take retaliatory action against an employee because an employee participates or gives information in an investigation, hearing, court proceeding, legislative or other inquiry, or other form of administrative review held by the public body.
- (3) An employer may not take retaliatory action against an employee because the employee has objected to or refused to carry out a directive that the employee reasonably believes violates a law of this state, a political subdivision of this state, or the United States, or a rule or regulation adopted under the authority of the laws of this state, a political subdivision of this state, or the United States.
- (4) An employer may not implement rules or policies that unreasonably restrict an employee's ability to document:
  - (a) the waste or misuse of public funds, property, or manpower;
  - (b) a violation or suspected violation of any law, rule, or regulation; or
  - (c) as it relates to a state government employer:
    - (i) gross mismanagement;
    - (ii) abuse of authority; or
    - (iii) unethical conduct.

Amended by Chapter 174, 2022 General Session

**67-21-3.5 Administrative review of retaliatory action against a public entity employee.**

- (1) A public entity employee who believes that the employee's employer has taken retaliatory action against the employee in violation of this chapter may file a grievance with the Career Service Review Office in accordance with Section 67-19a-402.5 and subject to Section 67-21-4.



- (2) If the Career Service Review Office determines that retaliatory action is taken in violation of this chapter against the public entity employee, the Career Service Review Office may order:
  - (a) reinstatement of the public entity employee at the same level held by the public entity employee before the retaliatory action;
  - (b) the payment of back wages, in accordance with Subsection 67-19a-406(5)(b);
  - (c) full reinstatement of benefits;
  - (d) full reinstatement of other employment rights; or
  - (e) if the retaliatory action includes failure to promote, as described in Subsection 67-19a-101(11)(d), a pay raise that results in the employee receiving the pay that the employee would have received if the employee had been promoted.
- (3) A public entity employer has the burden to prove by substantial evidence that the public entity employer's action was justified.
- (4) A public entity employee or public entity employer may appeal a determination of the Career Service Review Office as provided in Section 67-19a-402.5.

Amended by Chapter 174, 2022 General Session

**67-21-3.6 Administrative review for political subdivision employees.**

- (1)
  - (a) A political subdivision may adopt an ordinance to establish an independent personnel board to hear and take action on a complaint alleging retaliatory action.
  - (b) The ordinance described in Subsection (1)(a) shall include:
    - (i) procedures for filing a complaint and conducting a hearing; and
    - (ii) a burden of proof on the employer to establish by substantial evidence that the employer's action was justified by reasons unrelated to the employee's good faith actions under Section 67-21-3.
- (2) If a political subdivision adopts an ordinance described in Subsection (1), a political subdivision employee may file a complaint with the independent personnel board alleging retaliatory action.
- (3) If an independent personnel board finds that retaliatory action is taken in violation of the ordinance described in Subsection (1)(a), the independent personnel board may order:
  - (a) reinstatement of the employee at the same level as before the retaliatory action;
  - (b) the payment of back wages;
  - (c) full reinstatement of fringe benefits;
  - (d) full reinstatement of seniority rights; or
  - (e) if the retaliatory action includes failure to promote, as described in Subsection 67-19a-101(11)(d), a pay raise that results in the employee receiving the pay that the employee would have received if the person had been promoted.

Amended by Chapter 174, 2022 General Session

**67-21-3.7 Administrative review for state institution of higher education employees.**

- (1)
  - (a) As used in this section, "independent personnel board" means a board where no member of the board:
    - (i) is in the same department as the complainant;
    - (ii) is a supervisor of the complainant; or
    - (iii) has a conflict of interest in relation to the complainant or an allegation made in the complaint.

- (b) A state institution of higher education shall adopt a policy to establish an independent personnel board to hear and take action on a complaint alleging retaliatory action.
- (c) The policy described in Subsection (1)(b) shall include:
  - (i) procedures for filing a complaint and conducting a hearing; and
  - (ii) a burden of proof on the employer to establish by substantial evidence that the employer's action was justified by reasons unrelated to the employee's good faith actions under Section 67-21-3.
- (2)
  - (a) An employee of a state institution of higher education may file a complaint with the independent personnel board described in Subsection (1)(b) alleging retaliatory action.
  - (b) An independent personnel board that receives a complaint under Subsection (2)(a) shall hear the matter, resolve the complaint, and take action under Subsection (3) within the later of:
    - (i) 30 days after the day on which the employee files the complaint; or
    - (ii) a longer period of time, not to exceed 30 additional days, if the employee and the independent personnel board mutually agree on the longer time period.
- (3) If an independent personnel board finds that retaliatory action is taken in violation of the policy described in Subsection (1)(b), the independent personnel board may order, or recommend to a final decision maker:
  - (a) reinstatement of the employee at the same level as before the retaliatory action;
  - (b) the payment of back wages;
  - (c) full reinstatement of fringe benefits;
  - (d) full reinstatement of seniority rights; or
  - (e) if the retaliatory action includes failure to promote, as described in Subsection 67-19a-101(11)(d), a pay raise that results in the employee receiving the pay that the employee would have received if the person had been promoted.
- (4) A final decision maker who receives a recommendation under Subsection (3) shall render a decision and enter an order within seven days after the day on which the final decision maker receives the recommendation.

Amended by Chapter 174, 2022 General Session

**67-21-4 Choice of forum -- Remedies for employee bringing action -- Proof required.**

- (1)
  - (a) Except as provided in Subsection (1)(b) or (d), and subject to Subsections (1)(d) through (e), an employee who alleges a violation of this chapter may bring a civil action for appropriate injunctive relief, damages, or both, within 180 days after the occurrence of the alleged violation of this chapter.
  - (b) Except as provided in Subsection (1)(d):
    - (i) an employee of a political subdivision that has adopted an ordinance described in Section 67-21-3.6:
      - (A) may bring a civil action described in Subsection (1)(a) within 180 days after the day on which the employee has exhausted administrative remedies; and
      - (B) may not bring a civil action described in Subsection (1)(a) until the employee has exhausted administrative remedies; and
    - (ii) an employee of a state institution of higher education:
      - (A) may bring a civil action described in Subsection (1)(a) within 180 days after the day on which the employee has exhausted administrative remedies; and

- (B) may not bring a civil action described in Subsection (1)(a) until the employee has exhausted administrative remedies.
- (c) Except as provided in Subsection (1)(d), a public entity employee who is not a legislative employee or a judicial employee may bring a claim of retaliatory action by selecting one of the following methods:
  - (i) filing a grievance with the Career Service Review Office in accordance with Section 67-19a-402.5; or
  - (ii) bringing a civil action for appropriate injunctive relief, damages, or both, within 180 days after the occurrence of the alleged violation of this chapter.
- (d)
  - (i) A claimant may bring an action after the 180-day limit described in this Subsection (1) if:
    - (A) the claimant originally brought the action within the 180-day time limit;
    - (B) the action described in Subsection (1)(d)(i)(A) failed or was dismissed for a reason other than on the merits; and
    - (C) the claimant brings the new action within 180 days after the day on which the claimant originally brought the action under Subsection (1)(d)(i)(A).
  - (ii) A claimant may commence a new action under this Subsection (1)(d) only once.
- (e) A public entity employee who files a grievance under Subsection (1)(d)(i):
  - (i) may not, at any time, bring a civil action in relation to the subject matter of the grievance;
  - (ii) may seek a remedy described in Subsection 67-21-3.5(2); and
  - (iii) waives the right to seek a remedy or a type of damages not included in Subsection 67-21-3.5(2).
- (f) A public entity employee who files a civil action under Subsection (1)(d)(ii) may not, at any time, file a grievance with the Career Service Review Office in relation to the subject matter of the civil action.
- (2) An employee who brings a civil action under this section shall bring the action in the district court for the county where the alleged violation occurred, the county where the complainant resides, or the county where the person against whom the civil complaint is filed resides or has the person's principal place of business.
- (3)
  - (a) An employee who brings an action under this section has the burden of proving by a preponderance of the evidence that the employee, in good faith, engaged in protected reporting and suffered a retaliatory action.
  - (b) If the employee satisfies the burden described in Subsection (3)(a), the employer has the burden of proving by substantial evidence that the employer's action was justified.
  - (c) If the employer satisfies the burden described in Subsection (3)(b), the employee has the burden of proving by a preponderance of the evidence that the employer's justification is pretextual.

Amended by Chapter 174, 2022 General Session

**67-21-5 Court orders for violation of chapter.**

- (1) A court, in rendering a judgment in an action brought under this chapter, may order reinstatement of the employee at the same level, the payment of back wages, full reinstatement of fringe benefits and seniority rights, damages, or any combination of these remedies.
- (2) A court shall award the complainant all or a portion of the costs of litigation, which are defined to include reasonable attorney fees and witness fees, if the court determines that the complainant prevails.

Amended by Chapter 427, 2013 General Session

**67-21-6 Civil fine.**

- (1)
  - (a) A person who violates this chapter is liable for a civil fine of not more than \$500.
  - (b) The person who takes a retaliatory action against an employee in violation of this chapter, and not the public body that employs the employee, shall, after receiving notice and an opportunity to be heard, pay the civil fine under this Subsection (1).
  - (c) If a person is ordered to pay a civil fine under this Subsection (1), the employer may dismiss the person who took the retaliatory action in violation of this chapter.
- (2) A civil fine ordered under this chapter shall be submitted to the state treasurer for deposit in the General Fund.
- (3) The civil fine described in this section may be imposed if a violation of this chapter is found by:
  - (a) an independent personnel board described in Subsection 67-21-3.6(1)(a) or 67-21-3.7(1)(a);
  - (b) the Career Service Review Office; or
  - (c) a court.

Amended by Chapter 174, 2022 General Session

**67-21-7 No impairment of employee rights under collective bargaining agreement.**

This chapter shall not be construed to diminish or impair the rights of an employee under any collective bargaining agreement.

Enacted by Chapter 216, 1985 General Session

**67-21-8 No compensation when participation in public inquiry.**

This chapter shall not be construed to require an employer to compensate an employee for participation in an investigation, hearing, or inquiry held by a public body in accordance with Section 67-21-3.

Enacted by Chapter 216, 1985 General Session

**67-21-9 Notice of contents of this chapter -- Posting.**

- (1) An employer shall post notices and use other appropriate means to keep employees informed of their protections and obligations under this chapter.
- (2) An employer shall provide an employee with a copy of this chapter:
  - (a) when the employee is hired;
  - (b) upon a request by the employee; and
  - (c) when the employee files a grievance under this chapter.

Amended by Chapter 178, 2018 General Session

**67-21-10 False accusations.**

- (1) An employee violates this chapter if the employee knowingly makes a false accusation against an employer under this chapter.
- (2) An employee who violates Subsection (1), is subject to:
  - (a) a fine not to exceed \$5,000; and

- (b) dismissal from employment.

Enacted by Chapter 427, 2013 General Session

## **Chapter 22**

### **State Officer Compensation**

#### **67-22-1 Compensation -- Constitutional offices.**

- (1)
  - (a) The salary for the governor shall be set annually by the Legislature in an appropriations act.
  - (b) Constitutional office salaries shall be based on the following percentages of the salary of the governor:
    - (i) lieutenant governor: 90% of the governor's salary;
    - (ii) attorney general: 95% of the governor's salary;
    - (iii) state auditor: 90% of the governor's salary; and
    - (iv) state treasurer: 90% of the governor's salary.
- (2) The Legislature fixes benefits for the constitutional offices as follows:
  - (a) governor:
    - (i) a vehicle for official and personal use;
    - (ii) housing;
    - (iii) household and security staff;
    - (iv) household expenses;
    - (v) retirement benefits as provided in Title 49, Utah State Retirement and Insurance Benefit Act;
    - (vi) health insurance;
    - (vii) dental insurance;
    - (viii) basic life insurance;
    - (ix) workers' compensation;
    - (x) required employer contribution to Social Security;
    - (xi) long-term disability income insurance; and
    - (xii) the same additional state paid life insurance available to other noncareer service employees; and
  - (b) lieutenant governor, attorney general, state auditor, and state treasurer:
    - (i) a vehicle for official and personal use;
    - (ii) the option of participating in a:
      - (A) state retirement system in accordance with Title 49, Utah State Retirement and Insurance Benefit Act:
        - (I) Chapter 12, Public Employees' Contributory Retirement Act;
        - (II) Chapter 13, Public Employees' Noncontributory Retirement Act; or
        - (III) Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or
      - (B) deferred compensation plan administered by the State Retirement Office, in accordance with the Internal Revenue Code and its accompanying rules and regulations;
    - (iii) health insurance;
    - (iv) dental insurance;
    - (v) basic life insurance;
    - (vi) workers' compensation;
    - (vii) required employer contribution to Social Security;

- (viii) long-term disability income insurance; and
  - (ix) the same additional state paid life insurance available to other noncareer service employees.
- (3) Each constitutional office shall pay the cost of the additional state-paid life insurance for its constitutional officer from its existing budget.

Amended by Chapter 432, 2020 General Session

**67-22-2 Compensation -- Other state officers.**

(1) As used in this section:

(a) "Appointed executive" means the:

- (i) commissioner of the Department of Agriculture and Food;
- (ii) commissioner of the Insurance Department;
- (iii) commissioner of the Labor Commission;
- (iv) director, Department of Alcoholic Beverage Services;
- (v) commissioner of the Department of Financial Institutions;
- (vi) executive director, Department of Commerce;
- (vii) executive director, Commission on Criminal and Juvenile Justice;
- (viii) adjutant general;
- (ix) executive director, Department of Cultural and Community Engagement;
- (x) executive director, Department of Corrections;
- (xi) commissioner, Department of Public Safety;
- (xii) executive director, Department of Natural Resources;
- (xiii) executive director, Governor's Office of Planning and Budget;
- (xiv) executive director, Department of Government Operations;
- (xv) executive director, Department of Environmental Quality;
- (xvi) executive director, Governor's Office of Economic Opportunity;
- (xvii) executive director, Department of Workforce Services;
- (xviii) executive director, Department of Health and Human Services, Nonphysician;
- (xix) executive director, Department of Transportation;
- (xx) executive director, Department of Veterans and Military Affairs;
- (xxi) advisor, Public Lands Policy Coordinating Office, created in Section 63L-11-201;
- (xxii) Great Salt Lake commissioner, appointed under Section 73-32-201; and
- (xxiii) Utah water agent, appointed under Section 73-10g-702.

(b) "Board or commission executive" means:

- (i) members, Board of Pardons and Parole;
- (ii) chair, State Tax Commission;
- (iii) commissioners, State Tax Commission;
- (iv) executive director, State Tax Commission;
- (v) chair, Public Service Commission; and
- (vi) commissioners, Public Service Commission.

(c) "Deputy" means the person who acts as the appointed executive's second in command as determined by the Division of Human Resource Management.

(2)

(a) The director of the Division of Human Resource Management shall:

- (i) before October 31 of each year, recommend to the governor a compensation plan for the appointed executives and the board or commission executives; and

- (ii) base those recommendations on market salary studies conducted by the Division of Human Resource Management.
- (b)
  - (i) The Division of Human Resource Management shall determine the salary range for the appointed executives by:
    - (A) identifying the salary range assigned to the appointed executive's deputy;
    - (B) designating the lowest minimum salary from those deputies' salary ranges as the minimum salary for the appointed executives' salary range; and
    - (C) designating 105% of the highest maximum salary range from those deputies' salary ranges as the maximum salary for the appointed executives' salary range.
  - (ii) If the deputy is a medical doctor, the Division of Human Resource Management may not consider that deputy's salary range in designating the salary range for appointed executives.
- (c)
  - (i) Except as provided in Subsection (2)(c)(ii), in establishing the salary ranges for board or commission executives, the Division of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 90% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.
  - (ii) In establishing the salary ranges for an individual described in Subsection (1)(b)(ii), (1)(b)(iii), or (1)(b)(iv), the Division of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 100% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.
- (3)
  - (a)
    - (i) Except as provided in Subsection (3)(a)(ii) or Subsection (3)(d), the governor shall establish a specific salary for each appointed executive within the range established under Subsection (2)(b).
    - (ii) If the executive director of the Department of Health and Human Services is a physician, the governor shall establish a salary within the highest physician salary range established by the Division of Human Resource Management.
    - (iii) The governor may provide salary increases for appointed executives within the range established by Subsection (2)(b) and identified in Subsection (3)(a)(ii).
  - (b) The governor shall apply the same overtime regulations applicable to other FLSA exempt positions.
  - (c) The governor may develop standards and criteria for reviewing the appointed executives.
  - (d) If under Section 73-10g-702 the governor appoints an individual who is serving in an appointed executive branch position to be the Utah water agent, the governor shall adjust the salary of the Utah water agent to account for salary received for the appointed executive branch position.
- (4) Salaries for other Schedule A employees, as defined in Section 63A-17-301, that are not provided for in this chapter, or in Title 67, Chapter 8, Utah Elected Official and Judicial Salary Act, shall be established as provided in Section 63A-17-301.
- (5)
  - (a) The Legislature fixes benefits for the appointed executives and the board or commission executives as follows:
    - (i) the option of participating in a state retirement system established by Title 49, Utah State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered by the State Retirement Office in accordance with the Internal Revenue Code and its accompanying rules and regulations;

- (ii) health insurance;
- (iii) dental insurance;
- (iv) basic life insurance;
- (v) unemployment compensation;
- (vi) workers' compensation;
- (vii) required employer contribution to Social Security;
- (viii) long-term disability income insurance;
- (ix) the same additional state-paid life insurance available to other noncareer service employees;
- (x) the same severance pay available to other noncareer service employees;
- (xi) the same leave, holidays, and allowances granted to Schedule B state employees as follows:
  - (A) sick leave;
  - (B) converted sick leave if accrued prior to January 1, 2014;
  - (C) educational allowances;
  - (D) holidays; and
  - (E) annual leave except that annual leave shall be accrued at the maximum rate provided to Schedule B state employees;
- (xii) the option to convert accumulated sick leave to cash or insurance benefits as provided by law or rule upon resignation or retirement according to the same criteria and procedures applied to Schedule B state employees;
- (xiii) the option to purchase additional life insurance at group insurance rates according to the same criteria and procedures applied to Schedule B state employees; and
- (xiv) professional memberships if being a member of the professional organization is a requirement of the position.
- (b) Each department shall pay the cost of additional state-paid life insurance for its executive director from its existing budget.
- (6) The Legislature fixes the following additional benefits:
  - (a) for the executive director of the Department of Transportation a vehicle for official and personal use;
  - (b) for the executive director of the Department of Natural Resources a vehicle for commute and official use;
  - (c) for the commissioner of Public Safety:
    - (i) an accidental death insurance policy if POST certified; and
    - (ii) a public safety vehicle for official and personal use;
  - (d) for the executive director of the Department of Corrections:
    - (i) an accidental death insurance policy if POST certified; and
    - (ii) a public safety vehicle for official and personal use;
  - (e) for the adjutant general a vehicle for official and personal use;
  - (f) for each member of the Board of Pardons and Parole a vehicle for commute and official use; and
  - (g) for the executive director of the Department of Veterans and Military Affairs a vehicle for commute and official use.

Amended by Chapter 232, 2025 General Session



## **Chapter 24**

### **Lobbying Restrictions Act**

#### **67-24-101 Title.**

This chapter is known as the "Lobbying Restrictions Act."

Enacted by Chapter 360, 2009 General Session

#### **67-24-102 Definitions.**

As used in this chapter:

- (1) "Lobbying" is as defined in Section 36-11-102.
- (2) "Lobbyist" is as defined in Section 36-11-102.
- (3) "State official" means:
  - (a) a member of the Legislature;
  - (b) the governor;
  - (c) the lieutenant governor;
  - (d) the state auditor;
  - (e) the state treasurer; and
  - (f) the attorney general.

Enacted by Chapter 360, 2009 General Session

#### **67-24-103 Qualified prohibitions on lobbyists -- Time limit -- Exceptions.**

- (1) Except as provided in Subsection (2), a former state official serving on or after May 12, 2009, may not become a lobbyist or engage in lobbying that would require registration as a lobbyist under Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act, for one calendar year, beginning on the day the state official leaves office and ending on the one-year anniversary of that day.
- (2) This section does not apply if the former state official engages in lobbying on behalf of:
  - (a) himself; or
  - (b) a business with which he is associated, unless the primary activity of the business is lobbying or governmental relations.

Enacted by Chapter 360, 2009 General Session

## **Chapter 26**

### **Utah Public Employees Healthy Workplace Act**

#### **Part 1**

#### **General Provisions**

#### **67-26-102 Definitions.**

As used in this chapter:

- (1)

- (a) "Abusive conduct" means verbal, nonverbal, or physical conduct of an employee to another employee of the same employer that, based on the severity, nature, or frequency of the conduct, a reasonable person would determine:
  - (i) is intended to cause intimidation, humiliation, or unwarranted distress;
  - (ii) results in substantial physical harm or substantial psychological harm as a result of intimidation, humiliation, or unwarranted distress; or
  - (iii) exploits an employee's known physical or psychological disability.
- (b) "Abusive conduct" does not mean a single act unless the act is an especially severe and egregious act that meets the standard described in Subsection (1)(a)(i), (ii), or (iii).
- (2) "Abusive conduct complaint process" means the process described in Section 67-26-202.
- (3) "Administrative review process" means a process that allows an employee, in relation to the findings of an abusive conduct investigation, to seek an administrative review that:
  - (a) an employer conducts in accordance with Section 67-26-202; or
  - (b) in relation to a state executive branch agency, the Career Service Review Office conducts in accordance with Section 67-19a-501.
- (4) "Division" means the Division of Human Resource Management.
- (5)
  - (a) "Employee" means an employee of an employer.
  - (b) "Employee" includes an elected or appointed official of an employer.
- (6) "Employer" means:
  - (a) a state executive branch agency; or
  - (b) an independent entity, as defined in Section 63E-1-102.
- (7) "Office" means the Career Service Review Office created under Section 67-19a-201.
- (8) "Physical harm" means the impairment of an individual's physical health or bodily integrity, as established by competent evidence.
- (9) "Psychological harm" means the impairment of an individual's mental health, as established by competent evidence.
- (10)
  - (a) "State executive branch agency" means a department, division, office, bureau, or other organization within the state executive branch.
  - (b) "State executive branch agency" includes an agency under the authority of the governor, lieutenant governor, state treasurer, state auditor, or attorney general.
  - (c) "State executive branch agency" does not include the Utah System of Higher Education or an independent entity, as defined in Section 63E-1-102.

Amended by Chapter 344, 2021 General Session

**67-26-103 Effect of chapter.**

This chapter does not:

- (1) exempt or relieve a person from a liability, duty, or penalty provided by another federal or state law;
- (2) create a private right of action;
- (3) expand or diminish rights or remedies available to a person before July 1, 2020; or
- (4) expand or diminish grounds for discipline that existed before July 1, 2020.

Enacted by Chapter 155, 2020 General Session

## **Part 2**

### **Abusive Conduct**

#### **67-26-201 State policy on abusive conduct.**

It is the policy of the state to provide and maintain a work environment free from abusive conduct.

Enacted by Chapter 155, 2020 General Session

#### **67-26-202 Abusive conduct complaint, investigation, administrative review process.**

- (1) An employee may file a written complaint of abusive conduct with the human resources department of the employee's employer if the complaint is against an employee of the same employer as the employee filing the complaint.
- (2) If an employee files a written complaint of abusive conduct under Subsection (1), the human resources department of the employee's employer shall conduct an abusive conduct investigation.
- (3)
  - (a) Each employer that is not a state executive branch agency:
    - (i) shall provide the employer's employees a process for:
      - (A) filing an abusive conduct complaint, including an alternative process if the complaint involves an individual who would otherwise receive or review an abusive conduct complaint; and
      - (B) an administrative review of the findings of an abusive conduct investigation described in Subsection (2) that is substantially similar to the administrative review process described in Section 67-19a-501; and
    - (ii) may request assistance from the division, at the division's current consultant rate, or the office, at a reasonable rate established by the office, in developing a process described in this Subsection (3)(a).
  - (b) The division shall provide a process for an employee of a state executive branch agency to file an abusive conduct complaint, including an alternative process if the complaint involves an individual who would otherwise receive or review an abusive conduct complaint.
- (4) The complaint described in Subsection (1) and a subsequent abusive conduct investigation are subject to:
  - (a) in relation to an employer other than a state executive branch agency, the administrative review process described in Subsection (3)(a); and
  - (b) in relation to a state executive branch agency, the office's administrative review process described in Section 67-19a-501.

Amended by Chapter 344, 2021 General Session

#### **67-26-203 Abusive conduct -- Training -- Policy.**

- (1) As used in this section:
  - (a) "Abusive conduct" means verbal, nonverbal, or physical conduct of a covered employee to another covered employee of the same covered employer that, based on the severity, nature, or frequency of the conduct, a reasonable person would determine:
    - (i) is intended to cause intimidation, humiliation, or unwarranted distress;

- (ii) results in substantial physical harm or substantial psychological harm as a result of intimidation, humiliation, or unwarranted distress; or
    - (iii) exploits a covered employee's known physical or psychological disability.
  - (b) "Covered employee" means:
    - (i) for the judicial branch, a judge or an employee of the judicial branch; or
    - (ii) for a higher education entity, each governing member and each employee of the higher education entity.
  - (c) "Covered employer" means:
    - (i) the judicial branch; or
    - (ii) a higher education entity.
  - (d) "Higher education entity" means an entity within the Utah System of Higher Education, including each member institution, the Utah Board of Higher Education, and the office of commissioner of higher education.
- (2) The judicial branch shall, beginning on January 1, 2021:
- (a) provide annual training to all covered employees on abusive conduct in the workplace; and
  - (b) implement a policy prohibiting, and for reporting and resolving, abusive conduct within the judicial branch.
- (3) Each higher education entity shall, beginning on January 1, 2021:
- (a) provide annual training to all covered employees on abusive conduct in the workplace; and
  - (b) implement a policy prohibiting, and for reporting and resolving, abusive conduct within the higher education entity.
- (4) The judicial branch and each higher education entity shall, before May 1, 2021, submit to the Government Operations Interim Committee a copy of the policies described in Subsections (2)(b) and (3)(b).

Enacted by Chapter 155, 2020 General Session

### **Part 3**

## **Training and Reporting**

#### **67-26-301 Abusive conduct training.**

- (1)
- (a) The division shall provide biennial training to educate all state executive branch agency employees and supervisors about how to prevent abusive workplace conduct.
  - (b) The training described in Subsection (1)(a) shall include information on:
    - (i) what constitutes abusive conduct and the ramifications of abusive conduct;
    - (ii) resources available to employees who are subject to abusive conduct; and
    - (iii) the abusive conduct complaint process described in Section 67-26-202.
- (2)
- (a) The division shall create a baseline training module for employers that are not state executive branch agencies to educate the employers' respective employees and supervisors about how to prevent abusive workplace conduct.
  - (b) The baseline training module described in Subsection (2)(a) shall include information on what constitutes abusive conduct and the ramifications of abusive conduct.

- (c) Each employer that is not a state executive branch agency shall create and provide supplemental training to educate the employer's employees and supervisors that supplements the division's baseline training module with information regarding:
    - (i) resources available to employees who are subject to abusive conduct; and
    - (ii) the employer's abusive conduct complaint process described in Section 67-26-202.
  - (d) An employer may request assistance from the division, at the division's current consultant rate, in developing the training described in Subsection (2)(c).
- (3)
- (a) Each employer shall provide professional development training to promote:
    - (i) ethical conduct;
    - (ii) organizational leadership practices based in principles of integrity; and
    - (iii) the state policy described in Section 67-26-201.
  - (b) An employer may request assistance from the division, at the division's current consultation rate, in developing training described in this Subsection (3).
- (4)
- (a) Employers shall provide and employees shall participate in the training described in this section:
    - (i) at the time the employee is hired or within a reasonable time after the employee begins employment; and
    - (ii) at least every other year after the employee begins employment.
  - (b) An employer shall, at the times described in Subsection (4)(a), provide notification to the employee of the abusive conduct complaint process.
- (5) The division may use money appropriated to the division or access support from outside resources to:
- (a) develop policies against workplace abusive conduct; and
  - (b) enhance professional development training on topics such as:
    - (i) building trust;
    - (ii) effective motivation;
    - (iii) communication;
    - (iv) conflict resolution;
    - (v) accountability;
    - (vi) coaching;
    - (vii) leadership; or
    - (viii) ethics.
- (6)
- (a) Beginning in 2021, and each year after 2021, an employer that is not a state executive branch agency shall, on or before July 31, report to the division regarding:
    - (i) the employer's implementation of this chapter, including the requirement to provide a process under Section 67-26-202; and
    - (ii) the total number and outcomes of abusive conduct complaints that the employer's employees filed and that the employer investigated or reviewed.
  - (b) The division shall annually report to the Economic Development and Workforce Services Interim Committee, no later than the November interim meeting, the following:
    - (i) a description the division's implementation of this chapter;
    - (ii) the division's recommendations, if any, to:
      - (A) appropriately address and reduce workplace abusive conduct; or
      - (B) change definitions or training required by this section;

- (iii) an annual report of the total number and outcomes of abusive conduct complaints that employees filed and the department investigated; and
- (iv) a summary of the reports the department receives under Subsection (6)(a).

Amended by Chapter 344, 2021 General Session

## **Chapter 27**

### **General Requirements for State Officers and Employees**

#### **67-27-101 Title**

This chapter is known as "General Requirements for State Officers and Employees."

Enacted by Chapter 169, 2022 General Session

#### **67-27-102 Definitions.**

As used in this chapter:

- (1) "Career service employee" means the same as that term is defined in Section 63A-17-102.
- (2) "Executive branch elected official" means:
  - (a) the governor;
  - (b) the lieutenant governor;
  - (c) the attorney general;
  - (d) the state treasurer; or
  - (e) the state auditor.
- (3) "Executive branch official" means an individual who:
  - (a) is a management level employee of an executive branch elected official; and
  - (b) is not a career service employee.
- (4) "State agency" means a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of the executive branch of state government.

Renumbered and Amended by Chapter 169, 2022 General Session

#### **67-27-103 State agency work week.**

- (1) Except as provided in Subsection (2), and subject to Subsection (3):
  - (a) a state agency with five or more employees shall, at least nine hours per day on Monday, Tuesday, Wednesday, Thursday, and Friday to provide a service required by statute to another entity of the state, a political subdivision, or the public:
    - (i) in person;
    - (ii) online; or
    - (iii) by telephone; and
  - (b) a state agency with fewer than five employees shall, at least eight hours per day on Monday, Tuesday, Wednesday, Thursday, and Friday, provide a service required by statute to another entity of the state, a political subdivision, or the public:
    - (i) in person;
    - (ii) online; or
    - (iii) by telephone.

- (2)
  - (a) Subsection (1) does not require a state agency to operate a physical location, or provide a service, on a holiday established under Section 63G-1-301.
  - (b) Except for a legal holiday established under Section 63G-1-301, the following state agencies shall operate at least one physical location, and as many physical locations as necessary, at least nine hours per day on Monday, Tuesday, Wednesday, Thursday, and Friday to provide a service required by statute to another entity of the state, a political subdivision, or the public:
    - (i) the Division of Technology Services, created in Section 63A-16-103;
    - (ii) the Division of Child and Family Services, created in Section 80-2-201; and
    - (iii) the Office of Guardian Ad Litem, created in Section 78A-2-802.
- (3) A state agency shall make staff available, as necessary, to provide:
  - (a) services incidental to a court or administrative proceeding, during the hours of operation of a court or administrative body, including:
    - (i) testifying;
    - (ii) the production of records or evidence; and
    - (iii) other services normally available to a court or administrative body;
  - (b) security services; and
  - (c) emergency services.
- (4) This section does not limit the days or hours a state agency may operate.
- (5) To provide a service as required by Subsection (1), the chief administrative officer of a state agency may determine:
  - (a) the number of physical locations, if any are required by this section, operating each day;
  - (b) the daily hours of operation of a physical location;
  - (c) the number of state agency employees who work per day; and
  - (d) the hours a state agency employee works per day.
- (6) To provide a service as required by Subsection (2)(b), the chief administrative officer of a state agency, or a person otherwise designated by law, may determine:
  - (a) the number of physical locations operating each day;
  - (b) the daily hours of operation, as required by Subsection (2)(b), of each physical location;
  - (c) the number of state agency employees who work per day; and
  - (d) the hours a state agency employee works per day.
- (7) A state agency shall:
  - (a) provide information, accessible from a conspicuous link on the home page of the state agency's website, on a method that a person may use to schedule an in-person meeting with a representative of the state agency; and
  - (b) except as provided in Subsection (8), as soon as reasonably possible:
    - (i) contact a person who makes a request for an in-person meeting; and
    - (ii) when appropriate, schedule and hold an in-person meeting with the person that requests an in-person meeting.
- (8) A state agency is not required to comply with Subsection (7)(b) to the extent that the contact or meeting:
  - (a) would constitute a conflict of interest;
  - (b) would conflict or interfere with a procurement governed by Title 63G, Chapter 6a, Utah Procurement Code;
  - (c) would violate an ethical requirement of the state agency or an employee of the state agency; or
  - (d) would constitute a violation of law.

Amended by Chapter 335, 2022 General Session

**67-27-104 Restrictions on outside employment by executive branch employees.**

- (1) An employee who is under the direction or control of an executive branch elected official may not engage in outside employment that:
  - (a) constitutes a conflict of interest;
  - (b) interferes with the ability of the employee to fulfill the employee's job responsibilities;
  - (c) constitutes the provision of political services, political consultation, or lobbying;
  - (d) involves the provision of consulting services, legal services, or other services to a person that the employee could, within the course and scope of the employee's primary employment, provide to the person; or
  - (e) interferes with the hours that the employee is expected to perform work under the direction or control of an executive branch elected official, unless the employee takes authorized personal leave during the time that the person engages in the outside employment.
- (2) An executive branch official shall be subject to the same restrictions on outside employment as a career service employee.
- (3) This section does not prohibit an employee from advocating the position of the state office that employs the employee regarding legislative action or other government action.

Renumbered and Amended by Chapter 169, 2022 General Session

**67-27-106 Reasonable accommodations for government employees.**

- (1) As used in this section:
  - (a) "Confidential information" means any:
    - (i) information related to an employee's request under Subsection (2); or
    - (ii) record created under Subsection (3) or (4).
  - (b) "Conscience" means a sincerely held belief as to the rightness or wrongness of an action or inaction.
  - (c)
    - (i) "Employee" means an individual employed by a governmental entity.
    - (ii) "Employee" does not include:
      - (A) an elected official;
      - (B) an individual employed by the Legislature; or
      - (C) an individual who is appointed or employed to be on an elected official's personal staff to assist the elected official in fulfilling the elected official's duties.
  - (d) "First responder" means:
    - (i) a law enforcement officer, as that term is defined in Section 53-13-103;
    - (ii) an emergency medical technician, as that term is defined in Section 53-2e-101;
    - (iii) an advanced emergency medical technician, as that term is defined in Section 53-2e-101;
    - (iv) a paramedic, as that term is defined in Section 53-2e-101;
    - (v) a firefighter, as that term is defined in Section 53B-8c-102; or
    - (vi) a dispatcher, as that term is defined in Section 53-6-102.
  - (e) "Governmental entity" means:
    - (i) the state;
    - (ii) a political subdivision of the state, including a county, city, town, school district, special district, institution of higher education, or special service district; or
    - (iii) an entity created by the state, including an agency, board, bureau, commission, committee, department, division, institution, instrumentality, or office.



- (f) "Retaliatory action" means any of the following actions taken by a governmental entity against an employee as a result of the employee filing a request under Subsection (2):
    - (i) a dismissal;
    - (ii) a reduction of compensation;
    - (iii) a failure to increase compensation by an amount that the employee is otherwise entitled to or was promised;
    - (iv) a failure to promote if the employee would otherwise be promoted; or
    - (v) a threat to take an action described in Subsections (1)(f)(i) through (iv).
  - (g) "Task" means a specific job, duty, or function.
  - (h) "Undue hardship" means a substantial burden, privation, or adversity on a governmental entity that would result from granting an employee's request to be relieved from performing a certain task when considering all relevant factors, including:
    - (i) the practical impact on the governmental entity in light of the nature, size, and operating cost of the governmental entity;
    - (ii) the disruption of the governmental entity's operations;
    - (iii) the nature of the employee's duties;
    - (iv) the number of employees the governmental entity will be required to grant a request to if the governmental entity grants the employee's request;
    - (v) the type of workplace; and
    - (vi) the number of requests by the employee in the preceding 12 months from the day on which the employee submitted the request.
- (2)
- (a) Except as provided in Subsection (2)(b), a governmental entity may not deny an employee's reasonable request to be relieved from performing a certain task if:
    - (i) performing the task would conflict with the employee's sincerely held religious beliefs or conscience;
    - (ii) the employee has complied with the requirements of Subsection (3); and
    - (iii) relieving the employee from the task would not impose an undue hardship on the governmental entity.
  - (b) A governmental entity is not required to grant an employee's request under Subsection (2)(a) if:
    - (i) the request is to be relieved from performing a task that is part of training or safety instructions directly related to the employee's employment;
    - (ii) granting the request would result in a deficit in the amount of work for which the employee is compensated;
    - (iii) granting the request would create a conflict with an existing legal obligation and the governmental entity cannot avoid the conflict if the governmental entity grants the employee's request under Subsection (3);
    - (iv) the employee is a first responder and the request by the employee under Subsection (2)(a) is to be relieved from performing a task that involves protecting the safety of the public; or
    - (v) the employee's asserted religious beliefs or conscience described in Subsection (2)(a)(i) is being asserted for an improper purpose.
- (3) Except as provided in Subsection (3)(b), an employee seeking to be relieved from performing a certain task under Subsection (2) shall:
- (a)
    - (i) as soon as practicable but not more than two days after the day on which the employee received the assignment to perform the task, submit a written request to the employee's

supervisor providing an explanation as to why the task would conflict with the employee's sincerely held religious beliefs or conscience; or

- (ii) if the employee receives the assignment to perform the task within two days after the day on which the employee received the assignment, orally or in writing immediately request to be relieved from performing the task; and
  - (b) provide the governmental entity with a reasonable opportunity to grant the employee's request or otherwise address the employee's concerns.
- (4)
- (a) Except as provided in Subsection (4)(c), a governmental entity that receives a request under Subsection (3) shall respond to the request as soon as practicable but at least five days before the day on which the certain task is required to be performed.
  - (b) If a governmental entity denies an employee's request submitted as described in Subsection (3), the governmental entity shall include in the response required under Subsection (4)(a):
    - (i) an explanation of the governmental entity's decision and why:
      - (A) granting the request would impose an undue hardship on the governmental entity; or
      - (B) the governmental entity is not required to grant the employee's request for a reason described in Subsection (2)(b); and
    - (ii) that the employee may seek redress in a court as described in Subsection (6) if the employee has exhausted the internal process allowing the governmental entity to address the employee's concerns under Subsection (3)(b).
  - (c) An employee and governmental entity may agree in writing to waive or extend the time limit described in Subsection (4)(a).
- (5)
- (a) A governmental entity may adopt a policy detailing the requirements of this section.
  - (b) A policy adopted under Subsection (5)(a) shall:
    - (i) provide the governmental entity's employees a process for making a request under this section;
    - (ii) designate an individual to receive an employee request described in Subsection (3);
    - (iii) outline the information an employee is required to provide to the governmental entity in a request described in Subsection (3);
    - (iv) describe the process the employee is required to undertake to allow the governmental entity a reasonable opportunity to grant the employee's request or otherwise address the employee's concerns under Subsection (3)(b); and
    - (v) outline the process the governmental entity will use to evaluate a request received under Subsection (3) in determining if the request will impose an undue hardship on the governmental entity.
  - (c) A governmental entity establishing a policy under this Subsection (5) shall ensure that:
    - (i) the governmental entity's employees receive notice of the policy and access to a copy of the policy when the policy is adopted or when an employee begins working for the governmental entity, whichever occurs first; and
    - (ii) if the governmental agency receives a request under Subsection (3), the governmental entity includes a reference to the governmental entity's policy in the governmental entity's response.
- (6)
- (a) An employee has a right of action against the governmental entity that employs the employee if:
    - (i) the employee has complied with Subsection (3) in good faith;

- (ii) the employee has complied with any policy created under Subsection (5) after receiving notice and a reference of the policy as described in Subsection (5)(c);
- (iii) the employee's asserted religious beliefs or conscience described in Subsection (2)(a)(i) is not asserted for an improper purpose; and
- (iv)
  - (A) granting the request would not have imposed an undue hardship on the governmental entity; or
  - (B) the governmental entity cannot meet an exception described in Subsection (2)(b).
- (b) An employee seeking to assert a right of action under this section shall bring the action in a court within 180 calendar days after the day on which the employee received the governmental entity's response described in Subsection (4).
- (c) If an employee establishes, by a preponderance of the evidence, that the employee meets the requirements described in Subsection (6)(a), the court:
  - (i) shall grant the employee relief by:
    - (A) issuing an injunction ordering the governmental entity to relieve the employee from the specific task if the task is still to be performed; or
    - (B) ordering the governmental entity to reinstate or rehire the employee, with an award of back pay, if the employee was constructively discharged, demoted, or terminated as a direct result of the governmental entity's violation of Subsection (2); and
  - (ii) may award to the employee reasonable attorney fees, and court costs.
- (7) The classification of an employee's confidential information is governed by Title 63G, Chapter 2, Government Records Access and Management Act.
- (8) A governmental entity may not take retaliatory action against an employee for submitting a meritorious request under Subsection (3).
- (9) Nothing in this section:
  - (a) limits the employee's right to bring any other claim the employee may have against the governmental entity; or
  - (b) prevents a governmental entity from implementing a policy required by state or federal law.

Enacted by Chapter 500, 2024 General Session

**67-27-107 Prohibition on the use of certain submissions by governmental employers -- Exceptions.**

- (1) As used in this section:
  - (a)
    - (i) "Governmental employer" means any department, division, agency, commission, board, council, committee, authority, municipality, county, political subdivision, or any other institution of the state.
    - (ii) "Governmental employer" does not mean a local education agency or institution of higher education.
  - (b)
    - (i) "Prohibited submission" means a submission, statement, or document that requires an individual to articulate the individual's position, view, contribution, effort, or experience regarding a policy, program, or initiative that promotes differential treatment based on an individual's personal identity characteristics, as that term is defined in Section 53B-1-118.
    - (ii) "Prohibited submission" includes a submission, statement, or document that relates to a policy, program, or initiative regarding:
      - (A) anti-racism;

- (B) bias;
  - (C) critical race theory;
  - (D) implicit bias;
  - (E) intersectionality;
  - (F) prohibited discriminatory practice, as that term is defined in Section 53B-1-118; or
  - (G) racial privilege.
- (iii) "Prohibited submission" does not include a submission, statement, or document for an employment position if the submission, statement, or document relates to a bona fide occupational qualification for the position.
- (2) Except as provided in Subsection (4), a governmental employer may not require, request, solicit, or compel a prohibited submission as a certification or condition before taking action with respect to:
- (a) employment, including decisions regarding:
    - (i) hiring;
    - (ii) terms of employment;
    - (iii) benefits;
    - (iv) compensation;
    - (v) seniority status;
    - (vi) tenure or continuing status;
    - (vii) promotion;
    - (viii) performance reviews;
    - (ix) transfer;
    - (x) termination; or
    - (xi) appointment; or
  - (b) admissions and aid, including:
    - (i) admission to any state program or course;
    - (ii) financial or other forms of state-administered aid or assistance; or
    - (iii) other benefits from the governmental employer for which an individual is eligible.
- (3) A governmental employer may not grant any form of preferential consideration to an individual who, with or without solicitation from the governmental employer, provides a prohibited submission for any action described in Subsection (2).
- (4) If federal law requires a governmental employer to accept or require a prohibited submission, the governmental employer:
- (a) may accept the prohibited submission only to the extent required under federal law; and
  - (b) shall limit consideration of the information contained in the prohibited submission to the extent necessary to satisfy the requirement under federal law.
- (5) Nothing in this section limits or prohibits a governmental employer's authority to establish policies that are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment.

Enacted by Chapter 3, 2024 General Session

**67-27-108 Prohibition on the use of certain training by governmental employers --  
Exceptions.**

- (1) As used in this section:
- (a) "Governmental employer" means the same as that term is defined in Section 67-27-107.
  - (b)

- (i) "Prohibited training" means a mandatory instructional program and related materials that a governmental employer requires the governmental employer's current or prospective employees to attend that promote prohibited discriminatory practices as that term is defined in Section 53B-1-118.
- (ii) "Prohibited training" includes an in-person or online seminar, discussion group, workshop, other program, or related materials.
- (2) A governmental employer may not require prohibited training.
- (3) Nothing in this section limits or prohibits a governmental employer's authority to establish policies that are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment.

Enacted by Chapter 3, 2024 General Session

**67-27-109 Prohibited discriminatory practices -- Restrictions -- Reporting.**

- (1) As used in this section:
  - (a) "Executive agency director" means the executive agency director of an executive department agency who, at the direction of the governor, carries out state business.
  - (b) "Governmental employer" means the same as that term is defined in Section 67-27-107.
  - (c) "Personal identity characteristics" means the same as that term is defined in Section 53B-1-118.
  - (d) "Prohibited discriminatory practice" means the same as that term is defined in Section 53B-1-118.
- (2)
  - (a) This section does not apply to a federal grant or program that would otherwise require a governmental employer to engage in a prohibited discriminatory practice if the grant or program has been reviewed and approved by the governmental employer's executive director, legislative body, or governing body, as that term is defined in Section 10-1-104.
  - (b) A governmental employer's executive director, legislative body, or governing body shall report the reviewed and approved federal grant or program under Subsection (2)(a) to the Executive Appropriations Committee.
- (3) A governmental employer may not engage in prohibited discriminatory practices.
- (4) Nothing in this section limits or prohibits a governmental employer from:
  - (a) as required or permitted by state law:
    - (i) establishing or maintaining an office, division, or employment position to implement, develop, plan, or promote practices relating to personal identity characteristics if the office, division, or employment position is not engaging in prohibited discriminatory practices; or
    - (ii) employing or assigning an employee or a third-party whose duties for governmental employer include coordinating, creating, developing, designing, implementing, organizing, planning, or promoting policies, programming, training, practices, activities, and procedures relating to personal identity characteristics if the employee or the third-party is not engaging in prohibited discriminatory practices;
  - (b) establishing policies that are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment; or
  - (c) establishing policies that are necessary to comply with state law enacted on or before July 1, 2024.
- (5)

- (a) Beginning on July 1, 2024, each executive agency director shall conduct a thorough review of existing agency programs and offices to determine if the program or office is in compliance with Subsection (3).
- (b) On or before August 1, 2025, each executive agency director shall report on the compliance of agency programs and offices under Subsection (5)(a) to the governor.
- (c) The governor shall provide the reports under Subsection (5)(b) to:
  - (i) the Government Operations Interim Committee at or before the November 2025, interim committee meeting; and
  - (ii) the Legislative Management Committee upon request.

Enacted by Chapter 3, 2024 General Session

## **Chapter 28**

### **State Agency Criminal Offense Review Requirements**

#### **67-28-101 Definitions.**

As used in this chapter:

- (1) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.
- (2) "Criminal offense" means an act or omission that may result in a felony, misdemeanor, or infraction.
- (3)
  - (a) "State agency" means a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of the executive branch of state government.
  - (b) "State agency" does not include the attorney general.

Enacted by Chapter 510, 2025 General Session

#### **67-28-102 State agency review and recommendation regarding criminal offenses.**

- (1) Except as provided in Subsection (4), on or before July 1, 2026, and on or before July 1 every three years after 2026, every state agency shall complete a review of the criminal offenses contained in the statutes:
  - (a) for which the state agency is responsible to prosecute or refer for prosecution; or
  - (b) contained in the state agency's designated area of code.
- (2)
  - (a) A state agency review required under this section shall require the state agency to evaluate each criminal offense described in Subsection (1) and recommend whether the criminal offense:
    - (i) would benefit from legislative amendment, clarification, or repeal; and
    - (ii) should have the penalty level increased, reduced, or remain the same.
  - (b) The review under Subsection (2)(a) shall include the state agency's specific recommendations and reasoning for any recommended statutory changes.
  - (c) Each state agency shall submit the results of the review required under this section to the commission:
    - (i) within 30 days after the day on which the review is completed; and
    - (ii) in the standardized format developed by the commission under Subsection (3).

- (3) The commission shall:
  - (a) develop a standardized format for reporting the information described in Subsection (2);
  - (b) compile the information that was submitted under Subsection (2); and
  - (c) annually, on or before October 1, submit a report to the Law Enforcement and Criminal Justice Interim Committee that contains:
    - (i) the compiled information received for the current year, if any; and
    - (ii) the names of any agencies that failed to submit a review that was required under this section.
- (4) This section does not apply to the Division of Professional Licensing with regard to offenses in Title 58, Chapters 37 through 37e.

Enacted by Chapter 510, 2025 General Session