

**REMOVING BARRIERS TO ELECTRONIC
GOVERNMENT SERVICES DELIVERY**

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Blake D. Chard

AN ACT RELATING TO PROVIDING GOVERNMENT SERVICES ELECTRONICALLY;
AMENDING CODE SECTIONS TO REMOVE STATUTORY BARRIERS TO FACILITATE
THE PROVISION OF GOVERNMENT SERVICES ELECTRONICALLY; AND MAKING
CONFORMING AND TECHNICAL AMENDMENTS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

- 13-1-6**, as enacted by Chapter 322, Laws of Utah 1983
- 13-14-102**, as last amended by Chapter 339, Laws of Utah 1998
- 13-14-302**, as enacted by Chapter 277, Laws of Utah 1996
- 13-14-304**, as enacted by Chapter 277, Laws of Utah 1996
- 17A-2-531**, as last amended by Chapter 365, Laws of Utah 1999
- 17A-2-723**, as renumbered and amended by Chapter 186, Laws of Utah 1990
- 17A-3-208**, as last amended by Chapter 270, Laws of Utah 1998
- 17A-3-308**, as renumbered and amended by Chapter 186, Laws of Utah 1990
- 23-19-11**, as last amended by Chapter 145, Laws of Utah 1996
- 23-19-11.5**, as enacted by Chapter 120, Laws of Utah 1995
- 26-2-3**, as last amended by Chapter 202, Laws of Utah 1995
- 26-2-4**, as last amended by Chapter 202, Laws of Utah 1995
- 26-2-10**, as last amended by Chapter 202, Laws of Utah 1995
- 26-2-16**, as last amended by Chapter 202, Laws of Utah 1995
- 26-2-18**, as last amended by Chapter 202, Laws of Utah 1995
- 26-2-23**, as last amended by Chapter 202, Laws of Utah 1995
- 26-2-28**, as last amended by Chapter 202, Laws of Utah 1995
- 26-3-7**, as last amended by Chapter 201, Laws of Utah 1996

26-4-12, as last amended by Chapter 38, Laws of Utah 1993
26-6-20, as enacted by Chapter 126, Laws of Utah 1981
26-6a-2, as last amended by Chapter 137, Laws of Utah 1999
26-6b-4, as enacted by Chapter 211, Laws of Utah 1996
26-8a-103, as renumbered and amended by Chapter 141, Laws of Utah 1999
26-8a-414, as enacted by Chapter 141, Laws of Utah 1999
26-15a-106, as enacted by Chapter 345, Laws of Utah 1998
26-21-9, as last amended by Chapter 114, Laws of Utah 1990
26-21-20, as last amended by Chapter 209, Laws of Utah 1997
26-39-105.5, as last amended by Chapter 77, Laws of Utah 1999
34-32-1, as enacted by Chapter 85, Laws of Utah 1969
41-1a-116, as last amended by Chapter 314, Laws of Utah 1995
41-1a-512, as last amended by Chapter 221, Laws of Utah 1993
41-3-105, as last amended by Chapter 282, Laws of Utah 1998
41-3-803, as enacted by Chapter 167, Laws of Utah 1993
53-7-305, as renumbered and amended by Chapter 234, Laws of Utah 1993
53A-14-104, as enacted by Chapter 2, Laws of Utah 1988
53A-20-101, as last amended by Chapter 51, Laws of Utah 1998
57-11-5, as last amended by Chapter 199, Laws of Utah 1990
57-11-11, as enacted by Chapter 158, Laws of Utah 1973
57-11-12, as enacted by Chapter 158, Laws of Utah 1973
57-19-6, as last amended by Chapter 199, Laws of Utah 1990
57-19-9, as last amended by Chapter 199, Laws of Utah 1990
59-1-503, as last amended by Chapter 51, Laws of Utah 1991
59-1-504, as last amended by Chapter 161, Laws of Utah 1987
59-2-212, as last amended by Chapter 3, Laws of Utah 1988
59-2-214, as enacted by Chapter 4, Laws of Utah 1987
59-2-306, as last amended by Chapter 237, Laws of Utah 1992

59-2-307, as last amended by Chapter 14, Laws of Utah 1994
59-2-311, as last amended by Chapter 271, Laws of Utah 1995
59-2-322, as last amended by Chapter 148, Laws of Utah 1987
59-2-325, as renumbered and amended by Chapter 4, Laws of Utah 1987
59-2-326, as renumbered and amended by Chapter 4, Laws of Utah 1987
59-2-329, as renumbered and amended by Chapter 4, Laws of Utah 1987
59-2-508, as last amended by Chapter 235, Laws of Utah 1992
59-2-1002, as repealed and reenacted by Chapter 3, Laws of Utah 1988
59-2-1011, as repealed and reenacted by Chapter 3, Laws of Utah 1988
59-2-1101, as last amended by Chapter 227, Laws of Utah 1993
59-2-1102, as repealed and reenacted by Chapter 3, Laws of Utah 1988
59-2-1109, as last amended by Chapter 87, Laws of Utah 1996
59-2-1302, as last amended by Chapter 207, Laws of Utah 1999
59-2-1306, as repealed and reenacted by Chapter 3, Laws of Utah 1988
59-2-1307, as last amended by Chapter 360, Laws of Utah 1997
59-7-518, as renumbered and amended by Chapter 169, Laws of Utah 1993
59-7-519, as renumbered and amended by Chapter 169, Laws of Utah 1993
59-7-521, as renumbered and amended by Chapter 169, Laws of Utah 1993
59-10-524, as renumbered and amended by Chapter 2, Laws of Utah 1987
59-10-529, as last amended by Chapter 299, Laws of Utah 1998
59-12-107, as last amended by Chapter 210, Laws of Utah 1999
59-12-111, as last amended by Chapter 1, Laws of Utah 1993, Second Special Session
59-13-202, as last amended by Chapter 161, Laws of Utah 1987
59-13-301, as last amended by Chapter 3, Laws of Utah 1997, First Special Session
59-13-313, as last amended by Chapter 299, Laws of Utah 1998
59-13-316, as last amended by Chapter 271, Laws of Utah 1997
61-2-7.1, as enacted by Chapter 165, Laws of Utah 1991
61-2-7.2, as enacted by Chapter 165, Laws of Utah 1991

- 61-2-8, as last amended by Chapter 182, Laws of Utah 1988
- 61-2a-5, as last amended by Chapters 225 and 227, Laws of Utah 1989
- 61-2b-6, as last amended by Chapter 117, Laws of Utah 1999
- 61-2b-18, as last amended by Chapter 117, Laws of Utah 1999
- 61-2b-26, as last amended by Chapter 117, Laws of Utah 1999
- 61-2b-27, as last amended by Chapter 117, Laws of Utah 1999
- 63-56-5, as last amended by Chapters 89 and 252, Laws of Utah 1997
- 72-1-102, as renumbered and amended by Chapter 270, Laws of Utah 1998

ENACTS:

- 26-1-35, Utah Code Annotated 1953
- 53-7-107, Utah Code Annotated 1953
- 78-7-34, Utah Code Annotated 1953

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

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

13-1-6. Rules and regulations.

(1) The executive director shall prescribe rules and procedures for the management and operation of the department, the conduct of its employees, and the custody, use, and preservation of its records, papers, books, documents, and property.

(2) The department and its divisions, in contemplation, formulation, and passage of rules pursuant to Subsection (1), shall acknowledge and consider the facilitation of commerce in all its forms, including reliable electronic commerce, for the benefit of both consumers and businesses.

Section 2. Section **13-14-102** is amended to read:

13-14-102. Definitions.

As used in this chapter:

(1) "Board" means the Utah Motor Vehicle Franchise Advisory Board created in Section 13-14-103.

(2) "Dealership" means a site or location in this state:

(a) at which a franchisee conducts the business of a new motor vehicle dealer; and

(b) that is identified as a new motor vehicle dealer's principal place of business for licensing purposes under Section 41-3-204.

(3) "Department" means the Department of Commerce.

(4) "Executive director" means the executive director of the Department of Commerce.

(5) "Franchise" or "franchise agreement" means a written agreement, for a definite or indefinite period, in which:

(a) a person grants to another person a license to use a trade name, trademark, service mark, or related characteristic; and

(b) a community of interest exists in the marketing of new motor vehicles, new motor vehicle parts, and services related to the sale or lease of new motor vehicles at wholesale or retail.

(6) "Franchisee" means a person with whom a franchisor has agreed or permitted, in writing or in practice, to purchase, sell, or offer for sale new motor vehicles manufactured, produced, represented, or distributed by the franchisor.

(7) "Franchisor" means a person who has, in writing or in practice, agreed with or permits a franchisee to purchase, sell, or offer for sale new motor vehicles manufactured, produced, represented, or distributed by the franchisor, and includes:

(a) the manufacturer or distributor of the new motor vehicles;

(b) an intermediate distributor; and

(c) an agent, officer, or field or area representative of the franchisor.

(8) "Line-make" means the motor vehicles that are offered for sale, lease, or distribution under a common name, trademark, service mark, or brand name of the franchisor, or manufacturer of the motor vehicle.

(9) "Motor home" means a self-propelled vehicle, primarily designed as a temporary dwelling for travel, recreational, or vacation use.

(10) "Motor vehicle" means:

(a) a travel trailer;

(b) a motor vehicle as defined in Section 41-3-102;

(c) a semitrailer as defined in Section 41-1a-102;

(d) a trailer as defined in Section 41-1a-102; and

(e) a recreational vehicle.

(11) "New motor vehicle" has the same meaning as defined in Section 41-3-102.

(12) "New motor vehicle dealer" is a person who is licensed under Subsection 41-3-202(1)(a).

(13) "Notice" or "notify" includes both traditional written communications and all reliable forms of electronic communication unless expressly prohibited by statute or rule.

~~[(13)]~~ (14) "Recreational vehicle" means a vehicular unit other than a mobile home, primarily designed as a temporary dwelling for travel, recreational, or vacation use, which is either self-propelled or pulled by another vehicle. "Recreational vehicle" includes a travel trailer, a camping trailer, a motor home, a fifth wheel trailer, and a van.

~~[(14)]~~ (15) (a) "Relevant market area," except with respect to recreational vehicles, means:

(i) the county in which a dealership is to be established or relocated; and

(ii) the area within a ten aeronautical miles radius from the site of the new or relocated dealership.

(b) "Relevant market area," with respect to recreational vehicles, means:

(i) the county in which the dealership is to be established or relocated; and

(ii) the area within a 35 aeronautical miles radius from the site of the new or relocated dealership.

~~[(15)]~~ (16) "Sale, transfer, or assignment" means any disposition of a franchise or an interest in a franchise, with or without consideration, including a bequest, inheritance, gift, exchange, lease, or license.

(17) "Serve" or "served," unless expressly indicated otherwise by statute or rule, includes any reliable form of communication.

~~[(16)]~~ (18) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

(19) "Written," "write," "in writing," or other variations of those terms shall include all

reliable forms of electronic communication.

Section 3. Section **13-14-302** is amended to read:

13-14-302. Issuance of additional franchises -- Relocation of existing franchisees.

(1) (a) Except as provided in Subsection (2), a franchisor shall comply with Subsection (1)(b) if the franchisor seeks to:

(i) enter into a franchise establishing a motor vehicle dealership within a relevant market area where the same line-make is represented by another franchisee; or

(ii) relocate an existing motor vehicle dealership.

(b) (i) If a franchisor seeks to take an action listed Subsection (1)(a), prior to taking the action, the franchisor shall in writing notify the board and each franchisee in that line-make in the relevant market area that the franchisor intends to take an action described in Subsection (1)(a).

(ii) The notice required by Subsection (1)(b)(i) shall:

(A) specify the good cause on which it intends to rely for the action; and

(B) be delivered by registered or certified mail or by any form of reliable electronic communication through which receipt is verifiable.

(c) Within 45 days of receiving notice required by Subsection (1)(b), any franchisee that is required to receive notice under Subsection (1)(b) may protest to the board the establishing or relocating of the dealership. When a protest is filed, the board shall inform the franchisor that:

(i) a timely protest has been filed;

(ii) a hearing is required;

(iii) the franchisor may not establish or relocate the proposed dealership until the board has held a hearing; and

(iv) the franchisor may not establish or relocate a proposed dealership if the board determines that there is not good cause for permitting the establishment or relocation of the dealership.

(d) If multiple protests are filed under Subsection (1)(c), hearings may be consolidated to expedite the disposition of the issue.

(2) Subsection (1) does not apply to a relocation that is:

(a) less than one aeronautical mile from the existing location of the franchisee's dealership; and

(b) within the same county.

(3) For purposes of this section:

(a) relocation of an existing franchisee's dealership in excess of one mile from its existing location is considered the establishment of an additional franchise in the line-make of the relocating franchise; and

(b) the reopening in a relevant market area of a dealership that has not been in operation for one year or more is considered the establishment of an additional motor vehicle dealership.

Section 4. Section **13-14-304** is amended to read:

13-14-304. Hearing regarding termination, relocation, or establishment of franchises.

(1) (a) Within ten days of receiving an application from a franchisee under Subsection 13-14-301(3) challenging its franchisor's right to terminate or not continue a franchise, or an application under Subsection 13-14-302(1) challenging the establishment or relocation of a franchise, the board shall:

(i) enter an order designating the time and place for the hearing; and

(ii) send a copy of the order by certified or registered mail, with return receipt requested, [~~a copy of the order~~] or by any form of reliable electronic communication through which receipt is verifiable to:

(A) the applicant;

(B) the franchisor; and

(C) if the application involves the establishment of a new franchise or the relocation of an existing dealership, to all franchisees in the relevant market area engaged in the business of offering to sell or lease the same line-make.

(b) A copy of an order mailed under Subsection (1)(a) shall be addressed to the franchisee at the place where the franchisee's business is conducted.

(2) Any person who can establish to the board an interest in the application may intervene as a party to the hearing, whether or not that person receives notice.

(3) Any person may appear and testify on the question of the public interest in the termination or noncontinuation of a franchise or in the establishment of an additional franchise.

(4) (a) Any hearing ordered under Subsection (1) shall be conducted no later than 120 days after the application for hearing is filed. A final decision on the challenge shall be made by the board no later than 30 days after the hearing.

(b) Failure to comply with the time requirements of Subsection (4)(a) is considered a determination that the franchisor acted with good cause or, in the case of a protest of a proposed establishment or relocation of a dealer, that good cause exists for permitting the proposed additional or relocated new motor vehicle dealer, unless:

- (i) the delay is caused by acts of the franchisor or the additional or relocating franchisee; or
- (ii) the delay is waived by the parties.

(5) The franchisor has the burden of proof to establish that under the provisions of this chapter it should be granted permission to:

- (a) terminate or not continue the franchise;
- (b) enter into a franchise agreement establishing an additional franchise; or
- (c) relocate the dealership of an existing franchisee.

Section 5. Section **17A-2-531** is amended to read:

17A-2-531. Bids for construction -- Contracts -- Payment and performance bonds -- Retainage.

(1) As used in this section, the word "sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.

~~(1)~~ (2) After adopting a plan and making an estimate of the cost of any drainage canal or canals, drains, drain ditches, and works, the board of supervisors shall give notice by publication for at least 20 days in at least one newspaper published or having a general circulation in each of the counties comprising the district, and in any other publication they ~~deem~~ consider advisable, calling for bids for the construction of such work or of any portion of it. If less than the whole work is advertised, then the portion so advertised shall be particularly described in ~~such~~ the notice. ~~Such~~ The notice shall state:

(a) that plans and specifications can be seen at the office of the board of supervisors;

(b) that the board of supervisors will receive sealed proposals for the work;

(c) that the contract will be let to the lowest responsible bidder; and

(d) the time and place appointed for opening bids. The bids shall be opened in public, and as soon as convenient thereafter the supervisors shall let the work, either in portions or as a whole, to the lowest responsible bidder, or they may reject any or all bids. Contracts for the purchase of material shall be awarded to the lowest responsible bidder. Any person or persons to whom a contract is awarded shall provide the board with bonds under Sections 14-1-18 and 63-56-38. The work shall be done under the direction and to the satisfaction of the engineer, and subject to the approval of the board of supervisors. This section does not apply in the case of any contract with the United States.

~~[(2)]~~ (3) If any payment on a contract with a private contractor for the construction of works under this section is retained or withheld, it shall be retained or withheld and released as provided in Section 13-8-5.

Section 6. Section **17A-2-723** is amended to read:

17A-2-723. Construction -- Notice -- Awarding contracts -- Contractor's bonds.

(1) As used in this section, the word "sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.

(2) After adopting a plan for the construction of canals, reservoirs, and works, the board of directors shall give notice thereof by publication in the county in which the principal office of the district is located at least once not less than ten days prior to the expiration of the period in which bids shall be received, and ~~[such]~~ the other notice as they may ~~[deem]~~ consider advisable calling for bids for the furnishing of material or construction of said work or any portion thereof.

(3) If less than the whole work is advertised, then the portion so advertised must be particularly described in ~~[such]~~ the notice; said notice shall set forth that plans and specifications, or specifications alone where there are no plans, may be seen at the office of the board, and that the board will receive sealed proposals therefor, and that the contract will be let to the lowest responsible bidder, stating the time and the place for opening the proposal which at said time and place shall be

opened in public, and as soon as convenient thereafter the board shall let said work, either in portions or as a whole, or award and order for materials, to the lowest responsible bidder, or it may reject any or all bids, and thereupon readvertise for proposals, or proceed to construct the work under its own superintendence.

(4) Contracts for the purchase of material shall be awarded to the lowest responsible bidder unless all bids are rejected or the board determines to readvertise for bids.

(5) The person or persons to whom a contract may be awarded shall enter into a bond, with good and sufficient sureties, to be approved by the board, payable to said district for not less than 25% of the amount of the contract price and conditioned for the faithful performance of said contract, but no such bond need be required by the board where materials are contracted for the bond requirement.

(6) The work shall be done under the direction and to the satisfaction of the engineer in charge, and be approved by the board, and shall be paid for out of the general fund account; provided, that the provisions of this section shall not apply in the case of any contract between the district and the United States.

(7) Nothing herein contained shall be construed to prohibit the district from purchasing material or doing any work required by it without advertising for bids and without the letting of a contract where the estimated cost of [such] the work or [such] the material does not exceed \$30,000 or in cases of emergencies the board of directors may let contracts for the work required in the emergency without advertising for bids or may cause [such] the work to be done by the district itself.

Section 7. Section **17A-3-208** is amended to read:

17A-3-208. Contract required for improvement -- Bidding requirements -- Exceptions.

(1) As used in this section, the word "sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.

~~(1)~~ (2)(a) Except as otherwise provided in this section, improvements in a special improvement district shall be made only under contract duly let to the lowest responsible bidder for the kind of service or material or form of construction which may be desired. The improvements may be divided into parts, and separate contracts let for each part, or several parts may be combined in

the same contract. A contract may be let on a unit basis. A contract shall not be let until a notice to contractors that sealed bids for the construction of the improvements will be received by the governing body at a specified time and place, and this notice has been published at least one time in a newspaper having general circulation in the county at least 15 days before the date specified for the receipt of bids.

(b) If by inadvertence or oversight, the notice is not published or is not published for a sufficient period of time prior to the receipt of bids, the governing body, however, may still proceed to let a contract for the improvements if at the time specified for the receipt of bids it has received not less than three sealed and bona fide bids from contractors.

(c) If, under the construction contract, periodic payments for work performed are to be made by the issuance of interim warrants, this fact shall be disclosed in the notice to contractors. The notice to contractors may be published simultaneously with the notice of intention.

~~[(2)]~~ (3) The governing body, or its designated agent, shall at the time specified in the notice, open, examine, and publicly declare the bids. From these bids, the governing body may award a contract to the lowest, responsible bidder if that party's bid is responsive to the request for proposal or invitation to bid; but the governing body shall not be obligated or required to award a contract to any bidder and may reject any or all bids. In the event no bids are received or no responsive or acceptable bids are received after one public invitation to bid, the governing body may take any of the following actions:

(a) publicly rebid the project using the original plans, specifications, cost estimates, and contract documents;

(b) negotiate a contract privately using the original project plans, specifications, cost estimates, and contract documents;

(c) publicly rebid the project after revising the original plans, specifications, cost estimates, or contract documents;

(d) cancel the project;

(e) abandon or dissolve the improvement district; or

(f) perform the project work with the governing entity's work forces and be reimbursed for

this work out of the special assessments levied.

~~[(3)]~~ (4) A contract need not be let for any improvement or part of any improvement the cost of which or the making of which is donated or contributed by any individual, corporation, the county, a municipality, the state of Utah, the United States, or any political subdivision of the state of Utah or of the United States. These donations or contributions may be accepted by the governing entity, but no assessments shall be levied against the property in the district for the amount of the donations or contributions.

~~[(4)]~~ (5) A contract need not be let as provided in this section where the improvements consist of the furnishing of utility services or maintenance of improvements. This work may be done by the governing entity itself. Assessments may be levied for the actual cost incurred by the governing entity for the furnishing of these services or maintenance, or in case the work is done by the governing entity, to reimburse the governing entity for the reasonable cost of supplying the services or maintenance.

~~[(5)]~~ (6) A contract need not be let as provided in this section where any labor, materials, or equipment to make any of the improvements are supplied by the governing entity. Assessments may be levied to reimburse the governing entity for the reasonable cost of supplying such labor, materials or equipment. The provisions of Sections 17-15-3 and 72-6-108 shall not apply to the improvements to be placed in a special improvement district created under this part.

Section 8. Section **17A-3-308** is amended to read:

**17A-3-308. Contracting for improvements -- Bids, publication, and notice --
Improvements for which contracts need not be let.**

(1) As used in this section, the word "sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.

~~[(+)]~~ (2) (a) Except as otherwise provided in this section, improvements in a special improvement district shall be made only under contract duly let to the lowest responsible bidder for the kind of service or material or form of construction which may be determined upon. The improvements may be divided into parts and separate contracts let for each part or several such parts may be combined in the same contract. A contract may be let on a unit basis. A contract shall not

be let until a notice to contractors that sealed bids for the construction of the improvements will be received by the governing body at a specified time and place and such notice has been published at least one time in a newspaper having general circulation in the municipality at least 15 days before the date specified for the receipt of bids~~;~~ ~~provided, if~~.

(b) If by inadvertence or oversight, the notice is not published or is not published for a sufficient period of time prior to the receipt of bids, the governing body may still proceed to let a contract for ~~[such]~~ the improvements if at the time specified for the receipt of bids it has received not less than three sealed and bona fide bids from contractors.

(c) The notice to contractors may be published simultaneously with the notice of intention.

(d) The governing body shall in open session at the time specified in the notice, open, examine and publicly declare the bids and may reject any or all bids when ~~[deemed]~~ considered for the public good and, at such or a later meeting, shall reject all bids other than the lowest and best bid of a responsible bidder.

(e) If the price bid by the lowest and best responsible bidder exceeds the estimated costs as determined by the engineer of the municipality, the governing body may nevertheless award a contract for the price so bid.

(f) The governing body may in any case refuse to award a contract and may obtain new bids after giving a new notice to contractors or may determine to abandon the district or not to make some of the improvements proposed to be made.

~~[(2)]~~ (3) A contract need not be let for any improvement or part of any improvement the cost of which or the making of which is donated or contributed by any individual, corporation, the municipality, ~~[the]~~ this state ~~[of Utah]~~, or the United States or any political subdivision of ~~[the]~~ this state ~~[of Utah]~~ or of the United States. All such donations or contributions may be accepted by the municipality, but no assessments shall be levied against the property in the district for the amount of such donations or contributions.

~~[(3)]~~ (4) A contract need not be let as provided in this section where the improvements consist of the furnishing of utility services or maintenance of improvements. ~~[Such]~~ The work may be done by the municipality itself. Assessments may be levied for the actual cost incurred by the

municipality for the furnishing of ~~[such]~~ the services or maintenance or, in case the work is done by the municipality, to reimburse the municipality for the reasonable cost of supplying ~~[such]~~ the services or maintenance.

~~[(4)]~~ (5) A contract need not be let as provided in this section where any labor, materials or equipment to make any of the improvements are supplied by the municipality. Assessments may be levied to reimburse the municipality for the reasonable cost of supplying ~~[such]~~ the labor, materials, or equipment.

Section 9. Section **23-19-11** is amended to read:

23-19-11. Age restriction -- Proof of hunter education required.

(1) The division may not issue a hunting license or permit to any person born after December 31, 1965, unless proof is presented to the division or one of its authorized wildlife license agents that the person has passed a division approved hunter education course offered by a state, province, or country.

(2) For purposes of this section, "proof" means:

- (a) a certificate of completion of a hunter education course;
- (b) a preceding year's hunting license or permit issued by a state, province, or country with the applicant's hunter education number noted on the hunting license or permit; or
- (c) verification of completion of a hunter education course pursuant to Subsections (3) and (4).

(3) If an applicant for a nonresident hunting license or permit is not able to present a hunting license, permit, or a certificate of completion as provided in Subsections (1) and (2), the division may contact another state, province, or country to verify the completion of a hunter education course so that a nonresident hunting license or permit may be issued.

(4) ~~[(a)]~~ If an applicant for a resident or nonresident hunting license or permit has completed a hunter education course in Utah but is not able to present a hunting license, permit, or a certificate of completion as provided in Subsections (1) and (2), the division may research the division's hunter education records to verify that the applicant has completed the hunter education course.

(5) (a) If an applicant for a resident or nonresident hunting license has completed a hunter

education course and is applying for a hunting permit or license through the division's drawings, Internet site, or other electronic means authorized by the division, the applicant's hunter education number and the name of the state, province, or country that issued the number may constitute proof of completion of a hunter education course under this section.

(b) The division may research the hunter education number to verify that the applicant has completed a division approved hunter education course.

~~[(b)]~~ (6) Upon issuance of the hunting license or permit, the division shall indicate the applicant's hunter education number on the face of the hunting license or permit.

~~[(5)]~~ (7) The division may charge a fee for any service provided in Subsection (3) or (4).
Section 10. Section **23-19-11.5** is amended to read:

23-19-11.5. Age restriction -- Proof of furharvester education required.

(1) (a) A resident born after December 31, 1984, may not purchase a resident furbearer license unless the applicant presents:

- (i) a certificate of completion of a division approved furharvester education course; or
- (ii) an immediately preceding year's furbearer license with the furharvester education number noted on the furbearer license.

(b) Upon issuance of the resident furbearer license, the division or authorized wildlife license agent shall indicate the applicant's furharvester education number on the face of the furbearer license.

(2) ~~[(a)]~~ If an applicant for a resident furbearer license has completed a furharvester education course in Utah but is not able to present a furbearer license or a certificate of completion as provided in Subsection (1), the division may research the division's furharvester education records to verify that the applicant has completed a furharvester education course in Utah.

(3) (a) If an applicant for a resident furbearer license has completed a furharvester education course and is applying for a furbearer license through the division's Internet site or other electronic means authorized by the division, the applicant's Utah furharvester education number may constitute proof of completion of a furharvester education course under this section.

(b) The division may research the furharvester education number to verify that the applicant has completed a division approved furharvester education course.

~~[(b)]~~ (4) The division may charge a fee for the service specified in Subsection ~~[(a)]~~ (2).

Section 11. Section **26-1-35** is enacted to read:

26-1-35. Content and form of certificates and reports.

(1) Certificates, certifications, forms, reports, other documents and records, and the form of communication between persons required by this title shall be prepared in the form prescribed by department rule.

(2) Certificates, certifications, forms, reports, or other documents and records, and communications between persons required by this title may be signed, filed, verified, registered, and stored by photographic, electronic, or other means as prescribed by department rule.

Section 12. Section **26-2-3** is amended to read:

26-2-3. Department duties and authority.

(1) The department shall:

(a) provide offices properly equipped for the preservation of vital records made or received under this chapter;

(b) establish a statewide vital records system for the registration, collection, preservation, amendment, and certification of vital records and other similar documents required by this chapter and activities related to them, including the tabulation, analysis, and publication of vital statistics;

(c) prescribe forms for certificates, certification, reports, and other documents and records necessary to establish and maintain a statewide system of vital records;

(d) prepare an annual compilation, analysis, and publication of statistics derived from vital records; and

(e) appoint a state registrar to direct the statewide system of vital records.

(2) The department may:

(a) divide the state from time to time into registration districts; and

(b) appoint local registrars for registration districts who under the direction and supervision of the state registrar shall perform all duties required of them by this chapter and department rules.

Section 13. Section **26-2-4** is amended to read:

26-2-4. Content and form of certificates and reports.

(1) To promote and maintain nationwide uniformity in the vital records system, the forms of certificates ~~[and], certification, reports, and other documents and records~~ required by this chapter or the rules implementing this chapter shall include as a minimum the items recommended by the federal agency responsible for national vital statistics, subject to approval, additions, and modifications by the department.

(2) ~~[Each certificate, report, and other document]~~ Certificates, certifications, forms, reports, other documents and records, and the form of communications between persons required by this chapter shall be prepared in the format prescribed by department rule.

(3) All vital records shall include the date of filing.

(4) ~~[Information required in certificates]~~ Certificates, certifications, forms, [records, or] reports, other documents and records, and communications between persons required by this chapter may be signed, filed, verified, registered, and stored by photographic, electronic, or other means as prescribed by department rule.

Section 14. Section **26-2-10** is amended to read:

26-2-10. Supplementary certificate of birth.

(1) Any person born in this state who is legitimized by the subsequent marriage of his natural parents, or whose parentage has been determined by any U.S. state court or Canadian provincial court having jurisdiction, or who has been legally adopted under the law of this or any other state or any province of Canada, may request the state registrar to register a supplementary certificate of birth on the basis of that status.

(2) The application for registration of a supplementary certificate may be made by the person requesting registration, if he is of legal age, by a legal representative, or by any agency authorized to receive children for placement or adoption under the laws of this or any other state.

(3) (a) The state registrar shall require that an applicant submit identification and proof according to department rules.

(b) In the case of an adopted person, that proof may be established by order of the court in which the adoption proceedings were held.

(4) (a) After the supplementary certificate is registered, any information disclosed from the

record shall be from the supplementary certificate.

(b) Access to the original certificate and to the ~~[documents filed]~~ evidence submitted in support of the supplementary certificate are not open to inspection except upon the order of a Utah district court or as provided under Section 78-30-18.

Section 15. Section **26-2-16** is amended to read:

**26-2-16. Death certificate -- Filing by funeral director -- Medical certification --
Records of funeral director -- Information filed with local registrar.**

(1) The funeral director or person acting as funeral director shall ~~[obtain and]~~ file a certificate of death prior to any disposition of a dead body or dead fetus. Personal and statistical information shall be obtained from the available persons best qualified to provide it. The names and addresses of persons providing the information shall be included. The ~~[certificate shall then be presented]~~ funeral director or person acting as funeral director shall present the certificate to the attending physician, if any, or to the medical examiner ~~[for completion of]~~ who shall certify the cause of death and other information required on the certificate. ~~[The date and place of burial shall be stated over the signature and address of the funeral director or person acting as funeral director. The completed certificate shall then be filed]~~ The funeral director, or person acting as funeral director, shall:

(a) provide the address of the funeral director or person acting as funeral director;

(b) certify the date and place of burial; and

(c) file the certificate with the state or local registrar.

(2) A funeral director, embalmer, or other person who removes from the place of death or transports or is in charge of final disposal of a dead body or dead fetus, shall keep a record identifying the dead body or dead fetus, and containing information pertaining to receipt, removal, and delivery of the dead body or dead fetus as prescribed by department rule.

(3) Not later than the tenth day of each month, every funeral director shall send to the local registrar and the department a list of the information required in Subsection (2) for each casket furnished and for funerals performed when no casket was furnished, during the preceding month. The lists shall be ~~[on forms provided]~~ in the form prescribed by the state registrar.

Section 16. Section **26-2-18** is amended to read:

26-2-18. Interments -- Duties of sexton or person in charge -- Record of interments -- Information filed with local registrar.

(1) A sexton or person in charge of any premises in which interments are made may not inter or permit the interment of any dead body or dead fetus unless the interment is made by a funeral director licensed under Title 58, Chapter 9, Funeral Services Licensing Act, or by a person holding a burial-transit permit.

(2) The sexton or the person in charge of any premises where interments are made shall keep a record of all interments made in the premises under his charge, stating the name of the decedent, place of death, date of burial, and name and address of the funeral director or other person making the interment. This record shall be open to public inspection. A city or county clerk may, at the clerk's option, maintain the interment records on behalf of the sexton or person in charge of any premises in which interments are made.

(3) Not later than the tenth day of each month, the sexton, person in charge of the premises, or city or county clerk who maintains the interment records shall send to the local registrar and the department a list of all interments made in the premises during the preceding month. The list shall be [~~on forms provided~~] in the form prescribed by the state registrar.

Section 17. Section **26-2-23** is amended to read:

26-2-23. Records required to be kept by health care institutions -- Information filed with local registrar and department.

(1) (a) All administrators or other persons in charge of hospitals, nursing homes, or other institutions, public or private, to which persons resort for treatment of diseases, confinements, or are committed by law, shall record all the personal and statistical information about patients of their institutions as required in certificates prescribed by this chapter.

(b) This information shall be recorded for collection at the time of admission of the patients and shall be obtained from the patient, if possible, and if not, the information shall be secured in as complete a manner as possible from other persons acquainted with the facts.

(2) When a dead body or dead fetus is released or disposed of by an institution, the person in charge of the institution shall keep a record showing the name of the deceased, date of death, name

and address of the person to whom the dead body or dead fetus is released, and date of removal from the institution. If final disposal is by the institution, the date, place, manner of disposition, and the name of the person authorizing disposition shall be recorded.

(3) Not later than the tenth day of each month, the administrator of each institution shall cause to be sent to the local registrar and the department a list of all births, deaths, fetal deaths, and induced abortions occurring in his institution during the preceding month. The lists shall be [~~on forms provided~~] in the form prescribed by the state registrar.

Section 18. Section **26-2-28** is amended to read:

26-2-28. Birth certificate for foreign adoptees.

Upon presentation of a court order of adoption and an order establishing the fact, time, and place of birth under Section 26-2-15, the department shall prepare a birth certificate for any person who:

- (1) was born in a country that is not recognized by the department rule as having an established vital records registration system;
- (2) was adopted under the laws of this state; and
- (3) was at the time of adoption considered an alien child for whom the court received [~~written~~] documentary evidence of legal residence under Section 78-30-8.5.

Section 19. Section **26-3-7** is amended to read:

26-3-7. Disclosure of health data -- Limitations.

The department may not disclose any identifiable health data unless:

- (1) one of the following persons has consented to the disclosure:
 - (a) the individual;
 - (b) the next-of-kin if the individual is deceased;
 - (c) the parent or legal guardian if the individual is a minor or mentally incompetent; or
 - (d) a person holding a power of attorney covering such matters on behalf of the individual;
- (2) the disclosure is to a governmental entity in this or another state or the federal government, provided that:
 - (a) the data will be used for a purpose for which they were collected by the department; and

(b) the recipient enters into a written agreement satisfactory to the department agreeing to protect such data in accordance with the requirements of this chapter and department rule and not permit further disclosure without prior approval of the department;

(3) the disclosure is to an individual or organization, for a specified period, solely for bona fide research and statistical purposes, determined in accordance with department rules, and the department determines that the data are required for the research and statistical purposes proposed and the requesting individual or organization enters into a written agreement satisfactory to the department to protect the data in accordance with this chapter and department rule and not permit further disclosure without prior approval of the department;

(4) the disclosure is to a governmental entity for the purpose of conducting an audit, evaluation, or investigation of the department and such governmental entity agrees not to use those data for making any determination affecting the rights, benefits, or entitlements of any individual to whom the health data relates;

(5) the disclosure is of specific medical or epidemiological information to authorized personnel within the department, local health departments, official health agencies in other states, the United States Public Health Service, the Centers for Disease Control and Prevention (CDC), or agencies responsible to enforce quarantine, when necessary to continue patient services or to undertake public health efforts to control communicable, infectious, acute, chronic, or any other disease or health hazard that the department considers to be dangerous or important or that may affect the public health;

(6) the disclosure is of specific medical or epidemiological information to a "health care provider" as defined in Section 78-14-3, health care personnel, or public health personnel who has a legitimate need to have access to the information in order to assist the patient or to protect the health of others closely associated with the patient. This Subsection (6) does not create a duty to warn third parties;

(7) the disclosure is necessary to obtain payment from an insurer or other third-party payor in order for the department to obtain payment or to coordinate benefits for a patient; or

(8) the disclosure is to the subject of the identifiable health data.

Section 20. Section **26-4-12** is amended to read:

26-4-12. Order to exhume body -- Procedure.

(1) In case of any death described in Section 26-4-7, when a body is buried without an investigation by the medical examiner as to the cause and manner of death, it shall be the duty of the medical examiner, upon being advised of the fact, to notify the district attorney or county attorney having criminal jurisdiction where the body is buried or death occurred. Upon notification, the district attorney or county attorney having criminal jurisdiction may file an action in the district court to obtain an order to exhume the body. A district judge may order the body exhumed upon an ex parte hearing.

(2) (a) A body shall not be exhumed until notice of the order has been served upon the executor or administrator of the deceased's estate, or if no executor or administrator has been appointed, upon the nearest heir of the deceased, determined as if the deceased had died intestate. If the nearest heir of the deceased cannot be located within the jurisdiction, then the next heir in succession within the jurisdiction may be served.

(b) The executor, administrator, or heir shall have 24 hours to notify the issuing court of any objection to the order prior to the time the body is exhumed. If no heirs can be located within the jurisdiction within 24 hours, the facts shall be reported to the issuing court which may order that the body be exhumed forthwith.

(c) Notification to the executor, administrator, or heir shall specifically state the nature of the action and the fact that objection must be filed with the issuing court within 24 hours of the time of service.

(d) In the event an heir files an objection, the court shall set hearing on the matter at the earliest possible time and issue an order on the matter immediately at the conclusion of the hearing. Upon the receipt of notice of objection, the court shall immediately notify the county attorney who requested the order, so that the interest of the state may be represented at the hearing.

(e) When there is reason to believe that death occurred in a manner described in Section 26-4-7, the district attorney or county attorney having criminal jurisdiction may make a motion that the court, upon ex parte hearing, order the body exhumed forthwith and without notice. Upon a

showing of exigent circumstances the court may order the body exhumed forthwith and without notice. In any event, upon motion of the district attorney or county attorney having criminal jurisdiction and upon the personal appearance of the medical examiner, the court for good cause may order the body exhumed forthwith and without notice.

(3) An order to exhume a body shall be directed to the medical examiner, commanding him to cause the body to be exhumed, perform the required autopsy, and properly cause the body to be reburied upon completion of the examination.

(4) The examination shall be completed and ~~[a return of the order to exhume shall be made to the issuing court within ten days. The]~~ the complete autopsy report shall be made to the district attorney or county attorney having criminal jurisdiction for any action the attorney [deems] considers appropriate. The district attorney or county attorney shall submit the return of the order to exhume within ten days in the manner prescribed by the issuing court.

Section 21. Section **26-6-20** is amended to read:

26-6-20. Serological testing of pregnant or recently delivered women.

(1) Every licensed physician and surgeon attending a pregnant or recently delivered woman for conditions relating to her pregnancy shall take or cause to be taken a sample of blood of the woman at the time of first examination or within ~~[10]~~ ten days thereafter. ~~[Such]~~ The blood sample shall be submitted to an approved laboratory for a standard serological test for syphilis. The provisions of this section shall not apply to any female who objects thereto on the grounds that she is a bona fide member of a specified, well recognized religious organization whose teachings are contrary to ~~[such]~~ the tests.

(2) Every other person attending a pregnant or recently delivered woman, who is not permitted by law to take blood samples, shall within ten days from the time of first attendance cause a sample of blood to be taken by a licensed physician. ~~[Such]~~ The blood sample shall be submitted to an approved laboratory for a standard serological test for syphilis.

(3) An approved laboratory is a laboratory approved by the department according to its rules governing the approval of laboratories for the purpose of this title. In submitting ~~[such]~~ the sample to the laboratory the physician shall designate whether it is a prenatal test or a test following recent

delivery.

(4) For the purpose of this chapter, a "standard serological test" means a test for syphilis approved by the department and made at an approved laboratory.

(5) ~~[Upon a separate form furnished by the department,] The laboratory shall transmit a detailed report of the standard serological test, showing the result thereof, ~~shall be transmitted by the laboratory~~ to the physician~~, and a copy submitted to the department. The copy submitted to the department shall be held in absolute confidence and not open to public inspection, provided that it shall be produced as evidence at a trial or proceeding in a court of competent jurisdiction, involving issues in which it may be material and relevant, on order of a judge of the court, and provided that it may be used in the compilation of aggregate figures and reports, without disclosing the identities of the persons involved~~].~~

Section 22. Section **26-6a-2** is amended to read:

26-6a-2. Emergency medical services provider's significant exposure -- Documentation -- Request for testing -- Refusal or consent.

(1) Whenever an emergency medical services provider has a significant exposure in the process of caring for a patient, he shall document that exposure. That documentation shall be ~~[in writing, on forms approved]~~ on the form prescribed by the department, and in the manner and time designated by the department.

(2) (a) Upon notification of a significant exposure, or upon receipt of the documentation described in Subsection (1), the hospital, health care facility, or other facility that receives the patient or individual shall request that he consent to testing of his blood to determine the presence of any disease as defined in Section 26-6a-1. The patient shall be informed that he may refuse to consent to the test and, if he refuses, the fact of his refusal will be forwarded to the designated agent and to the department, and the emergency medical services provider may seek a court order, pursuant to Section 78-29-102, requiring the patient to undergo testing. The designated agent shall forward that information to the emergency medical services provider. The right to refuse a blood test under the circumstances described in this section does not apply to an individual who has been convicted of a crime and is in the custody or under the jurisdiction of the Department of Corrections, or to any

person who is otherwise legally required to submit to testing.

(b) If consent is given, the facility shall obtain and test, or provide for testing of, the patient's blood to determine the presence of any disease, in accordance with the provisions of this chapter.

(c) If consent is not given, the emergency medical services provider may petition the district court for an order requiring the patient to submit to testing, pursuant to Section 78-29-102.

Section 23. Section **26-6b-4** is amended to read:

26-6b-4. Required notice -- Representation by counsel -- Conduct of proceedings.

(1) (a) If the individual who is subject to supervision is in custody, the department or the local health department, whichever is the petitioner, shall provide to the individual written notice of commencement of all proceedings and hearings held pursuant to Sections 26-6b-5 through 26-6b-7 as soon as practicable, and shall ~~mail~~ send the notice to the legal guardian, any immediate adult family members, legal counsel for the parties involved, and any other persons whom the individual or the district court designates. The notice shall advise these persons that a hearing may be held within the time provided by this chapter.

(b) If the individual has refused to permit release of information necessary for the provision of notice under this subsection, the extent of notice shall be determined by the district court.

(2) (a) If the individual who is subject to supervision is in custody, he shall be afforded an opportunity to be represented by counsel. If neither the individual nor others provide for counsel, the district court shall appoint counsel and allow counsel sufficient time to consult with the individual prior to the hearing. If the individual is indigent, the payment of reasonable attorneys' fees for counsel, as determined by the district court, shall be made by the county in which the individual resides or was found.

(b) The individual, the petitioner, and all other persons to whom notice is required to be given shall be afforded an opportunity to appear at the hearings, to testify, and to present and cross-examine witnesses. The district court may, in its discretion, receive the testimony of any other individual.

(c) The district court may allow a waiver of the individual's right to appear only for good cause shown, and that cause shall be made a part of the court record.

(d) The district court may order that the individual participate in the hearing by telephonic

means if the individual's condition poses a health threat to those who physically attend the hearing or to others if the individual is transported to the court.

(3) The district court may, in its discretion, order that the individual be moved to a more appropriate treatment, quarantine, or isolation facility outside of its jurisdiction, and may transfer the proceedings to any other district court within this state where venue is proper, provided that the transfer will not be adverse to the legal interests of the individual.

(4) The district court may exclude from the hearing all persons not necessary for the conduct of the proceedings.

(5) All hearings shall be conducted in as informal a manner as may be consistent with orderly procedure, and in a physical setting that is not likely to have a harmful effect on the health of the individual or others required to participate in the hearing.

(6) The district court shall receive all relevant and material evidence which is offered, subject to Utah Rules of Evidence.

Section 24. Section **26-8a-103** is amended to read:

26-8a-103. State Emergency Medical Services Committee -- Membership -- Expenses.

(1) The State Emergency Medical Services Committee created by Section 26-1-7 shall be composed of the following 16 members appointed by the governor, at least five of whom must reside in a county of the third, fourth, fifth, or sixth class:

(a) five physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act, as follows:

- (i) one surgeon who actively provides trauma care at a hospital;
- (ii) one rural physician involved in emergency medical care;
- (iii) two physicians who practice in the emergency department of a general acute hospital;

and

(iv) one pediatrician who practices in the emergency department or critical care unit of a general acute hospital or a children's specialty hospital;

(b) one representative from a private ambulance provider;

(c) one representative from an ambulance provider that is neither privately owned nor

operated by a fire department;

(d) two chief officers from fire agencies operated by the following classes of licensed or designated emergency medical services providers: municipality, county, and fire district, provided that no class of medical services providers may have more than one representative under this Subsection

(1)(d);

(e) one director of a law enforcement agency that provides emergency medical services;

(f) one hospital administrator;

(g) one emergency care nurse;

(h) one paramedic in active field practice;

(i) one emergency medical technician in active field practice;

(j) one certified emergency medical dispatcher affiliated with an emergency medical dispatch center; and

(k) one consumer.

(2) (a) Except as provided in Subsection (2)(b), members shall be appointed to a four-year term beginning July 1.

(b) Notwithstanding Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed by the governor for the unexpired term.

(3) (a) Each January, the committee shall organize and select one of its members as chair and one member as vice chair. The committee may organize standing or ad hoc subcommittees, which shall operate in accordance with guidelines established by the committee.

(b) The chair shall convene a minimum of four meetings per year. The chair may call special meetings. The chair shall call a meeting upon ~~receipt of a written request signed by~~ request of five or more members of the committee.

(c) Nine members of the committee constitute a quorum for the transaction of business and the action of a majority of the members present is the action of the committee.

(4) (a) Members shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(b) Members may decline to receive per diem and expenses for their service.

(5) Administrative services for the committee shall be provided by the department.

Section 25. Section **26-8a-414** is amended to read:

26-8a-414. Annexations.

(1) If a licensee is a municipality that desires to provide service to an area that it has annexed, the municipality may apply to the department to amend its license to include the annexed area. Upon receipt of a completed application to amend the license, the department shall ~~[issue written notice of the municipality's application to]~~ notify in writing all other licensed providers who serve any portion of the annexed area of the municipality's application.

(2) If the department does not receive an objection from a licensed provider that serves some portion of the annexed area within 30 days of issuing the notice that identifies an adverse impact to the provider or the public, the department shall:

(a) review the application to amend the license to determine whether the applicant can adequately provide services to the proposed area and whether the public interest in the areas of cost, quality, and access would be harmed; and

(b) if the application meets the requirements of Subsection (2)(a), amend the municipality's license and all other affected licenses to reflect the municipality's new boundaries.

(3) If an objection is received under Subsection (2), the municipality shall file a standard application for a license with the department under the provisions of Sections 26-8a-404 through 26-8a-409.

Section 26. Section **26-15a-106** is amended to read:

26-15a-106. Certified food safety manager.

(1) Before a person may manage a food service establishment as a certified food safety manager, that person shall submit documentation in the format prescribed by the department to the appropriate local health department indicating a passing score on a department-approved

examination.

(2) To continue to manage a food service establishment, a certified food safety manager shall:

(a) successfully complete, every three years, renewal requirements established by department rule which are consistent with original certification requirements; and

(b) submit documentation in the format prescribed by the department within 30 days of the completion of renewal requirements to the appropriate local health department.

(3) A local health department may deny, revoke, or suspend the authority of a certified food safety manager to manage a food service establishment or require the completion of additional food safety training courses for any one of the following reasons:

(a) submitting information required under Subsection (1) or (2) that is false, incomplete, or misleading;

(b) repeated violations of department or local health department food safety rules; or

(c) operating a food service establishment in a way that causes or creates a health hazard or otherwise threatens the public health, safety, or welfare.

(4) A determination of a local health department made pursuant to Subsection (3) may be appealed by a certified food safety manager in the same manner provided for in Subsection 26-15a-104(4).

(5) No person may use the title "certified food safety manager," or any other similar title, unless the person has satisfied the requirements of this chapter.

Section 27. Section **26-21-9** is amended to read:

26-21-9. Application for license -- Information required -- Public records.

(1) An application for license shall be made to the department [~~on a form supplied~~] in a form prescribed by the department. The [~~form and other documents~~] application and other documentation requested by the department as part of the application process shall require such information as the committee determines necessary to ensure compliance with established rules.

(2) Information received by the department in reports and inspections shall be public records, except the information shall not be disclosed if it directly or indirectly identifies any individual other than the owner or operator of a health facility (unless disclosure is required by law) or if its disclosure

would otherwise constitute an unwarranted invasion of personal privacy.

(3) Information received by the department from a health care facility, pertaining to that facility's accreditation by a voluntary accrediting organization, shall be private data except for a summary prepared by the department related to licensure standards.

Section 28. Section **26-21-20** is amended to read:

26-21-20. Requirement for hospitals to provide statements of itemized charges to patients.

(1) Each hospital, as defined in Section 26-21-2, shall provide a statement of itemized charges

to any patient receiving medical care or other services from that hospital.

(2) The statement shall be provided to the patient or his personal representative or agent at the hospital's expense, ~~[either]~~ personally ~~[or]~~, by mail, or by verifiable electronic delivery at the time any statement is provided to any person or entity for billing purposes. If the statement is not provided to a third party, it shall be provided to the patient as soon as possible and practicable.

(3) The statement shall itemize each of the charges actually provided by the hospital to the patient.

(4) The statement may not include charges of physicians who bill separately.

(5) The requirements of this section do not apply to patients who receive services from a hospital under Title XIX of the Social Security Act.

(6) A statement of charges to be paid by a third party and related information provided to a patient pursuant to this section shall be marked in bold: "DUPLICATE: DO NOT PAY" or other appropriate language.

Section 29. Section **26-39-105.5** is amended to read:

26-39-105.5. Residential child care certificate.

(1) (a) A residential child care provider of five to eight children shall obtain a Residential Child Care Certificate from the department unless Section 26-39-106 applies.

(b) The qualifications for a Residential Child Care Certificate are limited to:

(i) the submission of:

(A) an application ~~[on a form prepared]~~ in the form prescribed by the department;

(B) a certification and criminal background fee established in accordance with Section 26-1-6;

and

(C) identifying information described in Subsection 26-39-107(1) for each adult person who resides in the provider's home:

(I) for processing by the Department of Public Safety to determine whether any such person has been convicted of a crime; and

(II) to screen for a substantiated finding of child abuse or neglect pursuant to Section 62A-4a-116;

(ii) an initial and annual inspection of the provider's home within 90 days of sending an intent to inspect notice to:

(A) check the immunization record of each child who receives child care in the provider's home;

(B) identify serious sanitation, fire, and health hazards to children; and

(C) make appropriate recommendations; and

(iii) for new providers, completion of:

(A) five hours of department-approved training; and

(B) a department-approved CPR and first aid course.

(c) If a serious sanitation, fire, or health hazard has been found during an inspection conducted pursuant to Subsection (1)(b)(ii), the department may, at the option of the residential care provider:

(i) require corrective action for the serious hazards found and make an unannounced follow up inspection to determine compliance; or

(ii) inform the parents of each child in the care of the provider of the results of the department's inspection and the failure of the provider to take corrective action.

(d) In addition to an inspection conducted pursuant to Subsection (1)(b)(ii), the department may inspect the home of a residential care provider of five to eight children in response to a complaint of:

(i) child abuse or neglect;

- (ii) serious health hazards in or around the provider's home; or
- (iii) providing residential child care without the appropriate certificate or license.

(2) Notwithstanding this section:

(a) a license under Section 26-39-105 is required of a residential child care provider who cares for nine or more children;

(b) a certified residential child care provider may not provide care to more than two children under the age of two; and

(c) an inspection may be required of a residential child care provider in connection with a federal child care program.

(3) With respect to residential child care, the department may only make and enforce rules necessary to implement this section.

Section 30. Section **34-32-1** is amended to read:

34-32-1. Assignments to labor unions -- Effect.

Whenever an employee of any person, firm, school district, private or municipal corporation within ~~[the] this state [of Utah executes and delivers to]~~ desires his employer ~~[an instrument in writing whereby such employer is directed]~~ to deduct a sum at the rate not exceeding 3% per month from his wages ~~[and to pay the same]~~ for payment to a labor organization or union or any other organization of employees as assignee, upon notification in writing or verifiable electronic means, it shall be the duty of ~~[such] the~~ employer to make ~~[such] the~~ deduction and to pay ~~[the same monthly or as designated by employee]~~ to ~~[such] the~~ assignee and to continue to do so until otherwise directed ~~[by the employee through an instrument in writing]~~.

Section 31. Section **41-1a-116** is amended to read:

41-1a-116. Records -- Telephone requests for records -- Search fee.

(1) All records of the division are public unless the division determines based upon a written request by the subject of the record that the record is protected.

(2) Access to public records is determined by Section 63-2-201.

(3) Access to protected records, except as provided in Subsection (4), is determined by Section 63-2-202.

(4) In addition to those persons granted access to protected records under Section 63-2-202, the division may disclose a protected record to a licensed private investigator with a legitimate business need, a person with a bona fide security interest, or for purposes of safety, product recall, advisory notices, or statistical reports only upon receipt of a signed acknowledgment that the person receiving that protected record may not:

- (a) disclose information from that record to any other person; or
- (b) use information from that record for advertising or solicitation purposes.

(5) The division may provide protected information to a statistic gathering entity under Subsection (4) only in summary form.

(6) A person allowed access to protected records under Subsection (4) may request motor vehicle title or registration information from the division regarding any person, entity, or motor vehicle by submitting [~~in person or by mail~~] a written application on a form provided by the division.

(7) If a person regularly requests information for business purposes, the division may by rule allow the information requests to be made by telephone and fees as required under Subsection (8) charged to a division billing account to facilitate division service. The rules shall require that the:

- (a) division determine if the nature of the business and the volume of requests merit the dissemination of the information by telephone;
- (b) division determine if the credit rating of the requesting party justifies providing a billing account; and
- (c) the requestor submit to the division an application that includes names and signatures of persons authorized to request information by telephone and charge the fees to the billing account.

(8) (a) The division shall charge a reasonable search fee determined under Section 63-38-3.2 for the research of each record requested.

(b) Fees may not be charged for furnishing information to persons necessary for their compliance with this chapter.

- (c) Law enforcement agencies have access to division records free of charge.

Section 32. Section **41-1a-512** is amended to read:

41-1a-512. Application for title.

- (1) The application for a certificate of title shall include:
 - (a) the signature [~~in ink~~] of each person to be recorded on the certificate as owner;
 - (b) the name, bona fide residence and mailing address of the owner, or business address of the owner if the owner is a firm, association, or corporation;
 - (c) a description of the vehicle, vessel, or outboard motor, including the make, model, type of body, the model year as specified by the manufacturer, the number of cylinders, the identification number of the vehicle, vessel, or outboard motor, as applicable, and other information the division may require;
 - (d) other information required by the division to enable it to determine whether the owner is entitled to a certificate of title;
 - (e) a statement of one lien or encumbrance, if any, upon the vehicle, vessel, or outboard motor; and
 - (f) the names and addresses of all persons having any ownership interest in the vehicle, vessel, or outboard motor and the nature of the ownership interest.

(2) An application for a certificate of title for a new vehicle, vessel, or outboard motor purchased from a dealer shall be accompanied by a statement by the dealer or a bill of sale showing any lien retained by the dealer.

Section 33. Section **41-3-105** is amended to read:

41-3-105. Administrator's powers and duties -- Administrator and investigators to be law enforcement officers.

(1) The administrator may make rules to carry out the purposes of this chapter and Sections 41-1a-1001 through 41-1a-1007 according to the procedures and requirements of Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

(2) (a) The administrator may employ clerks, deputies, and assistants necessary to discharge the duties under this chapter and may designate the duties of those clerks, deputies, and assistants.

(b) The administrator, assistant administrator, and all investigators shall be law enforcement officers certified by peace officer standards and training as required by Section 53-13-103.

(3) (a) The administrator may investigate any suspected or alleged violation of:

- (i) this chapter;
 - (ii) Title 41, Chapter 1a, Motor Vehicle Act;
 - (iii) any law concerning motor vehicle fraud; or
 - (iv) any rule made by the administrator.
- (b) The administrator may bring an action in the name of the state against any person to enjoin a violation found under Subsection (3)(a).
- (4) (a) The administrator may prescribe forms to be used for applications for licenses.
- (b) The administrator may require information from the applicant concerning the applicant's fitness to be licensed.
- (c) Each application for a license shall contain:
- (i) if the applicant is an individual, the name and residence address of the applicant and the trade name, if any, under which he intends to conduct business;
 - (ii) if the applicant is a partnership, the name and residence address of each partner, whether limited or general, and the name under which the partnership business will be conducted;
 - (iii) if the applicant is a corporation, the name of the corporation, and the name and residence address of each of its principal officers and directors;
 - (iv) a complete description of the principal place of business, including:
 - (A) the municipality, with the street and number, if any;
 - (B) if located outside of any municipality, a general description so that the location can be determined; and
 - (C) any other places of business operated and maintained by the applicant in conjunction with the principal place of business; and
 - (v) if the application is for a new motor vehicle dealer's license, the name of each motor vehicle the applicant has been enfranchised to sell or exchange, the name and address of the manufacturer or distributor who has enfranchised the applicant, and the names and addresses of the individuals who will act as salespersons under authority of the license.
- (5) The administrator may adopt a seal with the words "Motor Vehicle Enforcement Administrator, State of Utah," to authenticate the acts of his office.

(6) (a) The administrator may require that the licensee erect or post signs or devices on his principal place of business and any other sites, equipment, or locations operated and maintained by the licensee in conjunction with his business.

(b) The signs or devices shall state the licensee's name, principal place of business, type and number of licenses, and any other information that the administrator considers necessary to identify the licensee.

(c) The administrator may make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, determining allowable size and shape of signs or devices, their lettering and other details, and their location.

(7) (a) The administrator shall provide for quarterly meetings of the advisory board and may call special meetings.

(b) Notices of all meetings shall be [~~mailed~~] sent to each member [~~at his last-known address~~] not fewer than five days prior to the meeting.

(8) The administrator, the officers and inspectors of the division designated by the commission, and peace officers shall:

(a) make arrests upon view and without warrant for any violation committed in their presence of any of the provisions of this chapter, or Title 41, Chapter 1a, Motor Vehicle Act;

(b) when on duty, upon reasonable belief that a motor vehicle, trailer, or semitrailer is being operated in violation of any provision of Title 41, Chapter 1a, Motor Vehicle Act, require the driver of the vehicle to stop, exhibit his driver's license and the registration card issued for the vehicle and submit to an inspection of the vehicle, the license plates, and registration card;

(c) serve all warrants relating to the enforcement of the laws regulating the operation of motor vehicles, trailers, and semitrailers;

(d) investigate traffic accidents and secure testimony of witnesses or persons involved; and

(e) investigate reported thefts of motor vehicles, trailers, and semitrailers.

Section 34. Section **41-3-803** is amended to read:

41-3-803. Consignment sales.

(1) A consignor may take possession of his consigned vehicle at any time the consigned

vehicle is in the possession of a consignee, provided that the consignor:

(a) has notified the consignee in writing that he will take possession of the consigned vehicle;
and

(b) has paid all outstanding charges owing to the consignee that have been agreed to by the consignor in accordance with Subsection (2).

(2) The agreed upon charges under Subsection (1)(b) shall be:

~~[(a) in writing;]~~

~~[(b)]~~ (a) stated on a form designed by the department; and

~~[(c) attached to]~~ (b) included with the written consignment agreement.

(3) A consignee who sells a consigned vehicle shall report to the consignor in writing the exact selling price of the consigned vehicle under either of the following circumstances:

(a) the consignor and consignee agree in writing that the consignor shall receive a percentage of the selling price upon the sale of the vehicle; or

(b) the consignor and consignee renegotiate in writing the selling price of the vehicle.

(4) When a consignee sells a consigned vehicle:

(a) the consignee, within seven calendar days of the date of sale, must give written notice to the consignor that the consigned vehicle has been sold; and

(b) the consignee, within 21 calendar days of the date of sale, or within 15 calendar days of receiving payment in full for the consigned vehicle, whichever date is earlier, shall remit the payment received to the consignor, unless the agreement to purchase the consigned vehicle has been rescinded before expiration of the 21 days.

(5) If the agreement to purchase the consigned vehicle has for any reason been rescinded before the expiration of 21 calendar days of the date of sale, the consignee shall within five calendar days thereafter give written notice to the consignor that the agreement to purchase has been rescinded.

(6) Vehicles on consignment shall be driven with the consignee's dealer plates. All other license plates or registration indicia must be removed from the vehicle.

(7) Prior to driving a consigned vehicle on the consignee's dealer plates, the consignee and

the consignor shall execute a written consignment agreement that states:

- (a) the party responsible for damage or misuse to a consigned vehicle; and
- (b) the permitted uses a consignee may make of a consigned vehicle.

(8) The consignee shall keep the written consignment agreement on file at his principal place of business.

Section 35. Section **53-7-107** is enacted to read:

53-7-107. Electronic writing.

(1) Any writing required or permitted by this chapter may be filed or prepared in an electronic medium and by electronic transmission subject to the ability of the recipient to accept and process the electronic writing.

(2) Any writing required by this chapter to be signed that is in an electronic medium shall be signed by digital signature in accordance with Title 46, Chapter 3, Utah Digital Signature Act.

Section 36. Section **53-7-305** is amended to read:

53-7-305. Board rulemaking -- Notice.

(1) (a) The board shall make rules as reasonably necessary for the protection of the health, welfare, and safety of the public and persons using LPG.

(b) The rules shall be in substantial conformity with the generally accepted standards of safety concerning LPG, and shall include the following conditions:

(i) the rules relating to safety in the storage, distribution, dispensing, transporting, and use of LPG in this state and in the manufacture, fabrication, assembly, sale, installation, and use of LPG systems, containers, apparatus, or appliances shall be reasonable; and

(ii) the rules shall conform as nearly as possible to the standards of the National Fire Protection Association, relating to the design, construction, installation, and use of systems, containers, apparatus, appliances, and pertinent equipment for the storage, transportation, dispensation, and use of LPG.

(2) The board may make rules:

(a) setting minimum general standards covering the design, construction, location, installation, and operation of equipment for storing, handling, transporting by tank truck or tank

trailer, or using LPG;

(b) specifying the odorization of the gases and the degree of odorization;

(c) governing LPG distributors and installers and the installation of LPG systems, carburetion systems, and fueling systems; and

(d) prescribing maximum container removal rates.

(3) (a) When a proposed rule is filed, the board shall give at least ten days' notice to all license applicants and licensees under this chapter by ~~[mailing]~~ sending a notice of the proposed new, revised, or amended rule together with a notice of hearing to the licensee's current address on file with the board.

(b) Any person affected by rulemaking under this part may submit written comment on the rule.

(c) A certificate citing the adoption and the effective date of a rule shall be signed by the members comprising a majority of the board.

(d) Within ten days after the adoption of the rule, the board shall ~~[cause to be mailed]~~ send to each license applicant or licensee, at his current address on file, a notice of the adoption of the rule, including its effective date.

(e) A facsimile of any member's signature may be used under this section if authorized by the member.

Section 37. Section **53A-14-104** is amended to read:

53A-14-104. Sealed proposals for textbook contracts -- Sample copies -- Price of textbooks.

(1) As used in this section, the word "sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.

~~[(1)]~~ (2) A person seeking a contract to furnish textbooks for use in the public schools shall submit a sealed proposal to the commission.

~~[(2)]~~ (3) Each proposal must be accompanied by sample copies of the textbooks proposed to be furnished and the wholesale price at which the publisher agrees to furnish each textbook during the adoption period.

Section 38. Section **53A-20-101** is amended to read:

53A-20-101. Construction and alteration of schools and plants -- Advertising for bids -- Payment and performance bonds -- Contracts -- Bidding limitations on local school boards -- Interest of local school board members.

(1) As used in this section, the word "sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.

[~~(+)~~] (2) (a) Prior to the construction of any school or the alteration of any existing school plant, if the total estimated accumulative building project cost exceeds \$80,000, a local school board shall advertise for bids on the project at least ten days before the bid due date.

(b) The board shall have the advertisement published in a newspaper having general circulation throughout the state and in appropriate construction trade publications that offer free listings.

(c) A similar advertisement is required in a newspaper published or having general circulation in any city or county that would be affected by the proposed project.

(d) The advertisement shall:

(i) require sealed proposals for the building project in accordance with plans and specifications furnished by the local school board;

(ii) state where and when the proposals will be opened and shall reserve the right of the board to reject any and all proposals; and

(iii) require a certified check or bid bond of not less than 5% of the bid to accompany the bid.

[~~(2)~~] (3) (a) The board shall meet at the time and place specified in the advertisement and publicly open and read all received proposals.

(b) If satisfactory bids are received, the board shall award the contract to the lowest responsible bidder.

(c) If none of the proposals are satisfactory, all shall be rejected.

(d) The board shall again advertise in the manner provided in this section.

(e) If, after advertising a second time no satisfactory bid is received, the board may proceed under its own direction with the required project.

~~[(3)]~~ (4) (a) The check or bond required under Subsection ~~[(1)]~~ (2)(d) shall be drawn in favor of the local school board.

(b) If the successful bidder fails or refuses to enter into the contract and furnish the additional bonds required under this section, then the bidder's check or bond is forfeited to the district.

~~[(4)]~~ (5) A local school board shall require payment and performance bonds of the successful bidder as required in Section 63-56-38.

~~[(5)]~~ (6) (a) A local school board may require in the proposed contract that at least 10% of the contract price be withheld until the project is completed and accepted by the board.

(b) If money is withheld, the board shall place it in an interest bearing account, and the interest accrues for the benefit of the contractor and subcontractors.

(c) This money shall be paid upon completion of the project and acceptance by the board.

~~[(6)]~~ (7) (a) A local school board may not bid on projects within the district if the total accumulative estimated cost exceeds \$80,000.

(b) The board may use its resources if no satisfactory bids are received under this section.

~~[(7)]~~ (8) A local school board member may not have a direct or indirect financial interest in the construction project contract.

Section 39. Section **57-11-5** is amended to read:

57-11-5. Registration, public offering statement, and receipt required for sale of subdivided land -- Temporary permit -- Right of rescission.

Unless the subdivided lands or the transaction is exempt under Section 57-11-4, all of the following apply:

(1) No person may offer or dispose of any interest in subdivided lands located in this state nor offer or dispose in this state of any interest in subdivided lands located outside of this state prior to the time the subdivided lands are registered in accordance with this chapter.

(2) Notwithstanding Subsection (1), the division may grant a temporary permit allowing the developer to begin a sales program while the registration is in process. In order to obtain a temporary permit the developer must:

(a) submit ~~[a formal written request]~~ an application to the division for a temporary permit in

the form required by the division;

(b) submit a substantially complete application for registration to the division, including all appropriate fees and exhibits required under Sections 57-11-6 and 57-11-7 in addition to a temporary permit fee of \$100;

(c) provide evidence acceptable to the division that all funds received by the developer or marketing agent will be placed into an independent escrow with instructions that funds will not be released until a final registration has been granted;

(d) give to each purchaser and potential purchaser a copy of the proposed property report which the developer has submitted to the division with the original application; and

(e) give to each purchaser the opportunity to rescind the purchase in accordance with this section. The purchaser must be granted an additional opportunity to rescind upon the issuance of an approved registration if the division determines that there is a substantial difference in the disclosures contained in the final property report and those given to the purchaser in the proposed property report.

(3) Any contract or agreement of disposition for an interest in subdivided lands may be rescinded by the purchaser without cause by midnight of the fifth calendar day after the execution of the contract or agreement of disposition. This right of rescission may not be waived by agreement. The contract or agreement of disposition shall state in boldface type on the signature page above all signatures: **YOU HAVE THE OPTION TO CANCEL YOUR CONTRACT OR AGREEMENT OF DISPOSITION BY NOTICE TO THE SELLER UNTIL MIDNIGHT OF THE FIFTH CALENDAR DAY FOLLOWING THE SIGNING OF THE CONTRACT OR AGREEMENT. WRITTEN NOTICE OF CANCELLATION MUST BE PERSONALLY DELIVERED OR SENT BY CERTIFIED MAIL, POSTMARKED BY MIDNIGHT OF THE FIFTH CALENDAR DAY FOLLOWING THE SIGNING OF THE CONTRACT OR AGREEMENT, TO THE SELLER AT: (Address of Seller).**

(4) No person may dispose of any interest in subdivided lands without delivering to the purchaser an effective, current public offering statement and obtaining a dated, signed receipt for the public offering statement in a form to be approved by the division from each purchaser. The

subdivider shall retain each receipt for two years from the date of its execution. All receipts shall be made available for inspection upon request by the division. Failure to comply with this subsection shall not constitute a cause of action under Section 57-11-17 but shall be grounds for appropriate action by the division under Sections 57-11-13 and 57-11-14.

Section 40. Section **57-11-11** is amended to read:

57-11-11. Rules of division -- Filing advertising material -- Injunctions -- Intervention by division in suits -- General powers of division.

(1) The division shall prescribe reasonable rules which shall be adopted, amended, or repealed only after a public hearing with notice thereof published once in a newspaper or newspapers with statewide circulation and ~~mailed~~ sent to any nonprofit organization which files a written request for notice with the division; said notice shall be published and ~~mailed~~ sent not less than ~~twenty~~ 20 days prior to the hearing. The rules shall include but need not be limited to:

(a) provisions for advertising standards to assure full and fair disclosure;

(b) provisions for escrow or trust agreements, performance bonds, or other means reasonably necessary to assure that all improvements referred to in the application for registration and advertising will be completed and that purchasers will receive the interest in land contracted for. These provisions, however, shall not be required if the city or county in which the subdivision is located requires similar means of assurance of a nature and in an amount no less adequate than is required under said rules;

(c) provisions for operating procedures;

(d) provisions for a shortened form of registration in cases where the division determines that the purposes of this act do not require a subdivision to be registered pursuant to an application containing all the information required by Section 57-11-6 or do not require that the public offering statement contain all the information required by Section 57-11-7; and

(e) other rules necessary and proper to accomplish the purpose of this act.

(2) The division by rule or order, after reasonable notice, may require the filing of advertising material relating to subdivided lands prior to its distribution, provided that the division must approve or reject any ~~such~~ advertising material within ~~fifteen~~ 15 days from the receipt thereof or the

material shall be [~~deemed~~] considered approved.

(3) If it appears that a person has engaged or is about to engage in an act or practice constituting a violation of a provision of this act or a rule or order hereunder, the agency, with or without prior administrative proceedings, may bring an action in the district court of the district where said person maintains his residence or a place of business or where said act or practice has occurred or is about to occur, to enjoin the acts or practices and to enforce compliance with this act or any rule or order hereunder. Upon proper showing, injunctive relief or temporary restraining orders shall be granted, and a receiver or conservator may be appointed. The division shall not be required to post a bond in any court proceedings.

(4) The division shall be allowed to intervene in a suit involving subdivided lands, either as a party or as an amicus curiae, where it appears that the interpretation or constitutionality of any provision of law will be called into question. In any suit by or against a subdivider involving subdivided lands, the subdivider promptly shall furnish the agency notice of the suit and copies of all pleadings. Failure to do so may, in the discretion of the division, constitute grounds for the division withholding any approval required by this act.

(5) The division may:

- (a) accept registrations filed in other states or with the federal government;
- (b) contract with public agencies or qualified private persons in this state or other jurisdictions to perform investigative functions;
- (c) accept grants-in-aid from any source.

(6) The division shall cooperate with similar agencies in other jurisdictions to establish uniform filing procedures and forms, uniform public offering statements, advertising standards, rules, and common administrative practices.

Section 41. Section **57-11-12** is amended to read:

57-11-12. Investigatory powers and proceedings of division.

(1) The division may:

- (a) make necessary public or private investigations within or outside of this state to determine whether any person has violated or is about to violate this act or any rule or order hereunder or to

aid in the enforcement of this act or in the prescribing of rules and forms hereunder;

(b) require or permit any person to file a [~~statement in writing, under oath or otherwise as the division determines,~~] complaint in the form required by the division as to all the facts and circumstances concerning the matter to be investigated.

(2) For the purpose of any investigation or proceeding under this act, the division or any officer designated by rule may administer oaths or affirmations, and upon its own motion or upon request of any party may subpoena witnesses, compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts, or any other matter reasonably calculated to lead to the discovery of material evidence.

(3) Upon failure to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all persons affected thereby, the division may apply to any district court for an order compelling compliance.

Section 42. Section **57-19-6** is amended to read:

57-19-6. Effective date of application.

(1) An application for registration filed pursuant to Section 57-19-5 is effective upon the expiration of 30 business days following its filing with the director, unless:

- (a) an order denying the application pursuant to Section 57-19-13 is in effect;
- (b) a prior effective date has been ordered by the director; or
- (c) the director has, prior to that date, notified the applicant of a defect in the registration application.

(2) An applicant may consent to the delay of effectiveness until the director by order declares the registration to be effective.

(3) Notwithstanding Section 57-19-4, the division may grant a temporary permit allowing the developer to begin a sales program while the registration is in process. To obtain a temporary permit, the developer shall:

- (a) submit [~~a formal written request~~] an application to the division for a temporary permit in

the form required by the division;

(b) submit a substantially complete application for registration to the division, including all appropriate fees and exhibits required under Section 57-19-5, plus a temporary permit fee of \$100;

(c) provide evidence acceptable to the division that all funds received by the developer or marketing agent will be placed into an independent escrow with instructions that funds will not be released until a final registration has been granted;

(d) give to each purchaser and potential purchaser a copy of the proposed property report that the developer has submitted to the division with the initial application; and

(e) give to each purchaser the opportunity to cancel the purchase in accordance with Section 57-19-12. The purchaser shall have an additional opportunity to cancel upon the issuance of an approved registration if the division determines that there is a substantial difference in the disclosures contained in the final property report and those given to the purchase in the proposed property report.

Section 43. Section **57-19-9** is amended to read:

57-19-9. Duration of registration -- Amendment and renewal -- Supplemental disclosure -- Notice of amendment.

(1) Registration of a project is effective for a period of one year and may, upon application, be renewed for successive periods of one year each.

(2) A registration may be amended at any time, for any reason, by filing an amended application for registration, which amended registration shall become effective in the manner provided in Section 57-19-6.

(3) The written disclosure required to be furnished to prospective purchasers pursuant to Section 57-19-11 shall be supplemented [~~in writing~~] as often as is necessary to keep the required information reasonably current. These [~~written~~] supplements shall be filed with the director as provided in Section 57-19-8.

(4) Every developer shall provide timely [~~written~~] notice sent to the director of any event which has occurred which may have a material adverse effect on the conduct of the operation of the project. In addition to this notification, the developer shall, within 30 days of the occurrence of that event, file an amendment to the registration disclosing the information previously provided.

(5) Each application for renewal of a registration and each supplementary filing as provided in this section shall be accompanied by a fee of \$200.

Section 44. Section **59-1-503** is amended to read:

59-1-503. Assessment and payment of amount determined.

(1) Following a redetermination of a deficiency by the commission, the entire amount redetermined as the deficiency by the decision of the commission, which has become final, shall be assessed and shall be paid within 30 days from the date ~~[of mailing of]~~ the notice and demand is sent from the commission.

(2) If the taxpayer does not file a petition with the commission within the time prescribed for filing the petition, the deficiency, notice of which has been ~~[mailed]~~ sent to the taxpayer shall be assessed, and shall be paid within 30 days from the date ~~[of mailing of]~~ the notice and demand is sent from the commission.

Section 45. Section **59-1-504** is amended to read:

59-1-504. Time determination final.

The action of the commission on the taxpayer's petition for redetermination of deficiency shall be final 30 days after the date ~~[of mailing of]~~ the commission's notice of agency action is sent. All tax, interest, and penalties are due 30 days from the date ~~[of mailing]~~ the commission's decision or order is sent, unless the taxpayer seeks judicial review.

Section 46. Section **59-2-212** is amended to read:

59-2-212. Equalization of values -- Hearings.

(1) The commission shall adjust and equalize the valuation of the taxable property in all counties of the state for the purpose of taxation; and may order or make an assessment or reassessment of any property which the commission determines has been overassessed or underassessed or which has not been assessed.

(2) If the commission intends to make an assessment or reassessment under this section, the commission shall give at least 15 days written notice [and] of the time and place fixed for the determination of the assessment [shall be given by the commission by letter deposited in the post office at least 15 days before the date so fixed,] to the owner of the property and to the auditor of the

county in which the property is located. Upon the date so fixed the commission shall assess or reassess the property and shall notify the county auditor of the assessment made, and every assessment has the same force and effect as if made by the county assessor before the delivery of the assessment book to the county treasurer.

(3) The county auditor shall record the assessment upon the assessment books in the same manner provided under Section 59-2-1011 in the case of a correction made by the county board of equalization, and no county board of equalization or assessor may change any assessment so fixed by the commission.

(4) All hearings upon assessments made or ordered by the commission pursuant to this section shall be held in the county in which the property involved is located.

(5) One or more members of the commission may conduct the hearing, and any assessment made after a hearing before any number of the members of the commission shall be as valid as if made after a hearing before the full commission.

Section 47. Section **59-2-214** is amended to read:

59-2-214. Commission to furnish forms for taxpayers' statements.

(1) The commission shall furnish the assessor of each county with blank forms of statements provided under Section 59-2-306, affixing [~~thereto an affidavit~~] to the form a statement substantially as follows to be signed by the party completing the form:

I, _____, do swear that I am a resident of the county of _____, and that my post office address is _____; that the above list contains a full and correct statement of all property subject to taxation, which I, or any firm of which I am a member, or any corporation, association, or company of which I am president, cashier, secretary, or managing agent, owned, claimed, possessed, or controlled at 12 o'clock [~~m.~~] midnight on the preceding January 1 and which is not already assessed this year.

(2) The [~~affidavit to the~~] signed statement made on behalf of a firm or corporation shall state the principal place of business of the firm or corporation, and in other respects shall conform substantially to the preceding form.

Section 48. Section **59-2-306** is amended to read:

59-2-306. Statements by taxpayers -- Power of assessors respecting statements.

(1) The county assessor may request a signed statement [~~in affidavit form~~] from any person setting forth all the real and personal property assessable by the assessor which is owned, possessed, managed, or under the control of the person at 12 o'clock noon on January 1. This statement shall be filed within 30 days after requested by the assessor.

(2) The [~~affidavit~~] signed statement shall include the following:

(a) all property belonging to, claimed by, or in the possession, control, or management of the person, any firm of which the person is a member, or any corporation of which the person is president, secretary, cashier, or managing agent;

(b) the county in which the property is located or in which it is taxable; and, if taxable in the county in which the [~~affidavit~~] signed statement was made, also the city, town, school district, road district, or other taxing district in which it is located or taxable; and

(c) all lands in parcels or subdivisions not exceeding 640 acres each, the sections and fractional sections of all tracts of land containing more than 640 acres which have been sectionized by the United States Government, and the improvements on those lands.

(3) Every assessor may subpoena and examine any person in any county in relation to any [~~affidavit~~] signed statement but may not require that person to appear in any county other than the county in which the subpoena is served.

Section 49. Section **59-2-307** is amended to read:

59-2-307. Refusal by taxpayer to file signed statement -- Penalty -- Assessor to estimate value -- Reporting of information to other counties.

(1) Any person who does not:

(a) file the [~~affidavit~~] signed statement required by Section 59-2-306;

(b) file the [~~affidavit~~] signed statement with respect to name and place of residence; or

(c) appear and testify when requested by the assessor, shall pay a penalty equal to 10% of the estimated tax due; but not less than \$100 for each failure to file a signed and completed [~~affidavit~~] statement, to be collected in the manner provided by Sections 59-2-1302 and 59-2-1303, except as otherwise provided for in this section, or by a judicial proceeding brought in the name of the assessor. All money recovered by any assessor under this section shall be paid into the county treasury.

(2) (a) The penalty imposed by Subsection (1) may not be waived or reduced by the assessor, county, county Board of Equalization, or commission except pursuant to a procedure for the review and approval of reductions and waivers adopted by county ordinance, or by administrative rule adopted in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

(b) The penalty under Subsection (1)(c) may not be imposed until 30 days after the taxpayer's receipt of a subsequent certified notice.

(3) (a) If any owner neglects or refuses to file the ~~[affidavit]~~ signed statement within 30 days of the date the first county request was sent as required under Section 59-2-306, the assessor shall make:

(i) a subsequent request by certified mail for the ~~[affidavit]~~ signed statement. The subsequent request shall also inform the owner of the consequences of not filing ~~[an affidavit]~~ a signed statement; and

(ii) a record of the failure to file and an estimate of the value of the property of the owner based on known facts and circumstances.

(b) The value fixed by the assessor may not be reduced by the county board of equalization or by the commission.

(4) If the ~~[affidavit]~~ signed statement discloses property in any other county, the assessor shall file the ~~[affidavit]~~ signed statement and ~~[mail]~~ send a certified copy to the assessor of each county in which the property is located.

Section 50. Section **59-2-311** is amended to read:

59-2-311. Completion and delivery of assessment book -- Signed statement required -- Contents of signed statement.

Prior to May 22 each year, the assessor shall complete and deliver the assessment book to the county auditor. The assessor shall subscribe ~~[an affidavit]~~ and sign a statement in the assessment book substantially as follows:

I, _____, the assessor of _____ County, do swear that before May 22, 19____, I made diligent inquiry and examination, and either personally or by deputy, established the value of all of the property within the county subject to assessment by me; that the property has been assessed on the

assessment book equally and uniformly according to the best of my judgment, information, and belief at its fair market value; that I have faithfully complied with all the duties imposed on the assessor under the revenue laws including the requirements of Section 59-2-303.1; and that I have not imposed any unjust or double assessments through malice or ill will or otherwise, or allowed anyone to escape a just and equal assessment through favor or reward, or otherwise.

Section 51. Section **59-2-322** is amended to read:

59-2-322. Transmittal of statement to commission.

(1) The county auditor shall, before June 8 of each year, prepare from the assessment book of that year a statement showing in separate columns:

~~[(1)]~~ (a) the total value of all property;

~~[(2)]~~ (b) the value of real estate, including patented mining claims, stated separately;

~~[(3)]~~ (c) the value of the improvements;

~~[(4)]~~ (d) the value of personal property exclusive of money; and

~~[(5)]~~ (e) the number of acres of land and the number of patented mining claims, stated separately.

(2) As soon as the statement is prepared the county auditor shall transmit the statement ~~[by mail]~~ to the commission.

Section 52. Section **59-2-325** is amended to read:

59-2-325. Statement transmitted to commission and state auditor.

The county auditor shall, before November 1 of each year, prepare from the assessment rolls of that year a statement showing the amount and value of all property in the county, as classified by the county assessment rolls, and the value of each class; the total amount of taxes remitted by the county board of equalization; the state's share of the taxes remitted; the county's share of the taxes remitted; the rate of county taxes; and any other information requested by the state auditor. The statement shall be made in duplicate, upon ~~[blanks furnished]~~ forms provided by the state auditor, and as soon as prepared shall be transmitted, ~~[by mail,]~~ one copy to the state auditor and one copy to the commission.

Section 53. Section **59-2-326** is amended to read:

59-2-326. Assessment roll delivered to county treasurer.

Before November 1, the county auditor must deliver the corrected assessment roll to the county treasurer, together with ~~[an affidavit]~~ a signed statement subscribed by him in a form substantially as follows:

I, ____ county auditor of the county of ____, do swear that I received the accompanying assessment roll of the taxable property of the county from the assessor, and that I have corrected it and made it conform to the requirements of the county board of equalization and commission, that I have reckoned the respective sums due as taxes and have added up the columns of valuations, taxes, and acreage as required by law.

Section 54. Section **59-2-329** is amended to read:

59-2-329. Verification of auditor's statements.

The county auditor shall verify all statements made by the auditor under the provisions of this title ~~[by an affidavit attached to the statement]~~ and attach a signed statement of verification.

Section 55. Section **59-2-508** is amended to read:

59-2-508. Application -- Consent to audit and review -- Purchaser's or lessee's signed statement.

(1) The owner of land eligible for valuation as land in agricultural use must submit an application to the county assessor of the county in which the land is located.

(2) Any application for valuation, assessment, and taxation of land in agricultural use shall:

(a) be on a form prescribed by the commission and provided for the use of the applicants by the county assessor;

(b) provide for the reporting of information pertinent to this part;

(c) be filed prior to March 1 of the tax year in which valuation under this part is requested; however, any application submitted after January 1 is subject to a \$25 late fee;

(d) be accompanied by the prescribed fees made payable to the county treasurer; and

(e) be recorded by the county recorder.

(3) Once the application for valuation as land in agricultural use has been approved, the county may elect to either:

(a) require the owner to submit a new application or [~~an affidavit~~] a signed statement verifying that the land qualifies for valuation under this part every five years if requested in writing by the county assessor; or

(b) require no additional [~~affidavit~~] signed statement or application for valuation as agricultural land, but require that the assessor be notified when a change in the land use or land ownership occurs.

(4) A certification by the owner that the facts set forth in the application or signed statement are true is considered as if made under oath and subject to the same penalties as provided by law for perjury.

(5) All owners applying for participation under this part and all purchasers or lessees signing [~~affidavits~~] statements under Subsection (6) are considered to have given their consent to field audit and review by both the commission and the county assessor. This consent is a condition to the acceptance of any application or [~~affidavit~~] signed statement.

(6) Any owner of lands eligible for valuation, assessment, and taxation under this part due to the use of that land by, and the agricultural production qualifications of, a purchaser or lessee, may qualify those lands by submitting, together with the application under Subsection (2), [~~an affidavit~~] a signed statement from that purchaser or lessee certifying those facts relative to the use of the land and the purchaser's or lessee's agricultural production of the land which would be necessary for qualification of those lands under this part.

Section 56. Section **59-2-1002** is amended to read:

59-2-1002. Change in assessment -- Force and effect -- Additional assessments -- Notice to interested persons.

(1) The county board of equalization shall use all information it may gain from the records of the county or elsewhere in equalizing the assessment of the property in the county or in determining any exemptions. The board may require the assessor to enter upon the assessment roll any taxable property which has not been assessed and any assessment made has the same force and effect as if made by the assessor before the delivery of the assessment roll to the county treasurer.

(2) During its sessions, the county board of equalization may direct the assessor to:

- (a) assess any taxable property which has escaped assessment;
- (b) add to the amount, number, or quantity of property when a false or incomplete list has been rendered; and
- (c) make and enter new assessments, at the same time cancelling previous entries, when any assessment made by the assessor is considered by the board to be incomplete or incorrect.

(3) The clerk of the board of equalization shall ~~[notify]~~ give written notice to all interested persons of the day fixed for the investigation of any assessment under consideration by the board ~~[by letter deposited in the post office, postpaid, and addressed to the interested person,]~~ at least 30 days before action is taken.

Section 57. Section **59-2-1011** is amended to read:

59-2-1011. Record of changes -- Form and contents of signed statement.

The county auditor shall make a record of all changes, corrections, and orders and before October 15 shall affix ~~[an affidavit]~~ a signed statement to the record, subscribed by the auditor, in a form substantially as follows:

I, _____, do swear that, as county auditor of _____ county, I have kept correct minutes of all acts of the county board of equalization regarding alterations to the assessment rolls, that all alterations agreed to or directed to be made have been made and entered on the rolls, and that no changes or alterations have been made except those authorized by the board or the commission.

Section 58. Section **59-2-1101** is amended to read:

59-2-1101. Exemption of property devoted to public, religious, or charitable uses -- Proportional payments for government-owned property -- Intangibles exempt -- Signed statement required.

(1) The exemptions authorized by this part may be allowed only if the claimant is the owner of the property as of January 1 of the year the exemption is claimed, unless the claimant is a federal, state, or political subdivision entity under Subsection (2)(a), (b), or (c), in which case the entity shall collect and pay a proportional tax based upon the length of time that the property was not owned by the entity.

(2) The following property is exempt from taxation:

- (a) property exempt under the laws of the United States;
- (b) property of the state, school districts, and public libraries;
- (c) property of counties, cities, towns, special districts, and all other political subdivisions of the state, except as provided in Title 11, Chapter 13, the Interlocal Cooperation Act;
- (d) property owned by a nonprofit entity which is used exclusively for religious, charitable, or educational purposes;
- (e) places of burial not held or used for private or corporate benefit;
- (f) farm equipment and machinery; and
- (g) intangible property.

(3) (a) The owner who receives exempt status for property, if required by the commission, shall file ~~[an affidavit]~~ a signed statement, on or before March 1 each year, certifying the use to which the property has been placed during the past year. The ~~[affidavit]~~ signed statement shall contain the following information in summary form:

- (i) identity of ~~[affiant]~~ the individual who signed the statement;
- (ii) the basis of the ~~[affiant's]~~ signer's knowledge of the use of the property;
- (iii) authority to make the ~~[affidavit]~~ signed statement on behalf of the owner;
- (iv) county where property is located; and
- (v) nature of use of the property.

(b) If the ~~[affidavit]~~ signed statement is not filed within the time limits prescribed by the county board of equalization, the exempt status may, after notice and hearing, be revoked and the property then placed on the tax rolls.

(4) The county legislative body may adopt rules to effectuate the exemptions provided in this part.

Section 59. Section **59-2-1102** is amended to read:

59-2-1102. Determination of exemptions by board of equalization -- Appeal.

(1) The county board of equalization may, after giving notice in a manner prescribed by rule, determine whether certain property within the county is exempt from taxation. The decision of the county board of equalization shall be in writing and shall include a statement of facts and the statutory

basis for its decision. A copy of the decision shall be [~~mailed~~] sent on or before May 15 to the person or organization applying for the exemption.

(2) The board shall notify an exempt property owner who has previously received an exemption but failed to file the annual [~~affidavit~~] statement as required under Section 59-2-1101 of the board's intent to revoke the exemption on or before April 1.

(3) No reduction may be made in the value of property and no exemption may be granted unless the party affected or the party's agent makes and files with the board a written application for the reduction or exemption, verified by [~~oath~~] signed statement, and appears before the board and shows facts upon which it is claimed the reduction should be made, or exemption granted. The board may waive the application or personal appearance requirements.

(4) Before the board grants any application for exemption or reduction, it may examine on oath the person or agent making the application. No reduction may be made or exemption granted unless the person or the agent making the application attends and answers all questions pertinent to the inquiry.

(5) Upon the hearing of the application the board may subpoena any witnesses, and hear and take any evidence in relation to the pending subject.

(6) The county board of equalization shall hold hearings and render a written decision to determine any exemption on or before May 1 in each year.

(7) Any property owner dissatisfied with the decision of the county board of equalization regarding any exemption may appeal to the commission under Section 59-2-1006.

Section 60. Section **59-2-1109** is amended to read:

59-2-1109. Indigent persons -- Tax relief, deferral, or abatement -- Application.

(1) No person under the age of 65 years is eligible for tax relief, deferral, or abatement provided for poor people under Sections 59-2-1107 and 59-2-1108 unless:

(a) the county legislative body finds that extreme hardship would prevail if the grants were not made; or

(b) the person is disabled.

(2) An application for the exemption shall be filed on or before September 1 with the county

legislative body of the county in which the property is located. The application shall set forth adequate facts to support the person's eligibility to receive the exemption.

(a) The application shall include [~~an affidavit~~] a signed statement setting forth the eligibility of the applicant for the exemption.

(b) Both husband and wife shall sign the application if they seek an exemption on a residence in which they both reside and which they own as joint tenants.

(3) For purposes of this section:

(a) A poor person is any person:

(i) whose total household income as defined in Section 59-2-1202 is less than the maximum household income certified to a homeowner's credit under Subsection 59-2-1208 (1);

(ii) who resides for not less than ten months of each year in the residence for which the tax relief, deferral, or abatement is requested; and

(iii) who is unable to meet the tax assessed on the person's residential property as the tax becomes due.

(b) "Residence" includes a mobile home as defined under Section 59-2-601.

(4) The commission shall adopt rules to implement this section.

(5) Any poor person may qualify for the deferral of taxes under Section 59-2-1108, or if the person meets the requisites of this section, for the abatement of taxes under Section 59-2-1107, or both.

Section 61. Section **59-2-1302** is amended to read:

59-2-1302. Assessor or treasurer's duties -- Collection of uniform fees and taxes on personal property -- Unpaid tax on uniform fee is a lien -- Delinquency interest -- Rate.

(1) After the assessor assesses taxes or uniform fees on personal property, the assessor or, if this duty has been reassigned in an ordinance under Section 17-16-5.5, the treasurer shall:

(a) list the personal property tax or uniform fee as provided in Subsection (3) with the real property of the owner in the manner required by law if the assessor or treasurer, as the case may be, determines that the real property is sufficient to secure the payment of the personal property taxes or uniform fees;

- (b) immediately collect the taxes or uniform fees due on the personal property; or
- (c) on or before the day on which the tax or uniform fee on personal property is due, obtain from the taxpayer a bond that is:
 - (i) payable to the county in an amount equal to the amount of the tax or uniform fee due, plus 20% of the amount of the tax or uniform fee due; and
 - (ii) conditioned for the payment of the tax or uniform fee on or before November 30.
- (2) (a) An unpaid tax as defined in Section 59-1-705, or unpaid uniform fee upon personal property listed with the real property is a lien upon the owner's real property as of 12 o'clock noon of January 1 of each year.
- (b) An unpaid tax as defined in Section 59-1-705, or unpaid uniform fee upon personal property not listed with the real property is a lien upon the owner's personal property as of 12 o'clock noon of January 1 of each year.
- (3) The assessor or treasurer, as the case may be, shall make the listing under this section:
 - (a) on the record of assessment of the real property; or
 - (b) by entering a reference showing the record of the assessment of the personal property on the record of assessment of the real property.
- (4) (a) The amount of tax or uniform fee assessed upon personal property is delinquent if the tax or uniform fee is not paid within 30 days after the day on which the tax notice or the combined ~~[affidavit]~~ signed statement and tax notice due under Section 59-2-306 is mailed.
- (b) Delinquent taxes or uniform fees under Subsection (4)(a) shall bear interest from the date of delinquency until the day on which the delinquent tax or uniform fee is paid at a rate that is 600 basis points above the "Federal Discount Rate" as of the preceding January 1.

Section 62. Section **59-2-1306** is amended to read:

59-2-1306. Collection after taxpayer moves from county -- Evidence of tax due -- Costs of collection.

- (1) If any person moves from one county to another after being assessed on personal property, the county in which the person was assessed may sue for and collect the tax in the name of the county where the assessment was made.

(2) At the trial, a certified copy of the assessment from the county where the assessment was made, with ~~[an affidavit]~~ a signed statement attached that the tax has not been paid, describing it as on the assessment book or delinquent list, is prima facie evidence that the tax and the interest are due, and entitles the county to judgment, unless the defendant proves that the tax was paid.

(3) The county treasurer shall be credited and the county auditor shall allow the expenses of collecting the tax and permit a deduction from the amount collected, not to exceed ~~[one-third]~~ 1/3 of the amount of the tax collected.

Section 63. Section **59-2-1307** is amended to read:

59-2-1307. Entries of tax payments made on rail cars or state-assessed commercial vehicles.

(1) The commission, upon apportionment of the property of rail car companies and state-assessed commercial vehicles, shall proceed to collect the taxes from the owners of the property, and shall ~~[furnish]~~ send to each owner ~~[, by mail postage prepaid, a]~~ notice of the amount of the tax assessed against it, when and where payable, when delinquent, and the penalty provided by law.

(a) The commission shall remit taxes collected from owners of state-assessed commercial vehicles to each county treasurer at least quarterly.

(b) On or before the first Monday in January following in each year, the commission shall remit to the state treasurer all other taxes collected and due the state, and to each county the taxes collected and due to it and to the various taxing entities included in the county. The state treasurer and the treasurers of the several taxing entities shall make proper entries in their records of the receipt of the taxes.

(2) All railroads doing business in this state shall furnish the commission with any information required by the commission, within the knowledge of the railroad companies, which will aid the commission in the collection of taxes from rail car companies.

Section 64. Section **59-7-518** is amended to read:

59-7-518. Sufficiency of notice.

Any notice required to be ~~[mailed]~~ sent to a taxpayer under the provisions of this chapter, if ~~[mailed]~~ sent to it at its last-known address as shown on the records of the commission, shall be

sufficient for the purposes of this chapter.

Section 65. Section **59-7-519** is amended to read:

59-7-519. Period of limitation for making assessments -- Change, correction, or amendment of federal income tax -- Duty of corporation to notify state.

(1) Except as provided in Section 59-7-520, the amount of taxes imposed by this chapter shall be assessed within three years after the return was filed, and no proceeding in the court without assessment for the collection of such taxes shall be begun after the expiration of such period.

(2) In the case of a deficiency attributable to the application of a net loss carryback, this deficiency may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the net loss which results in the carryback may be assessed.

(3) If the amount of federal taxable income for any year of any corporation as returned to the United States treasury department is changed or corrected by the commissioner of internal revenue or other officer of the United States or other competent authority, or where a renegotiation of a contract or subcontract with the United States results in a change of federal taxable income, that taxpayer shall report [~~such~~] the change or corrected net income within 90 days after the final determination of [~~such~~] the change or correction as required to the commission and shall concede the accuracy of [~~such~~] the determination or state wherein it is erroneous. Any corporation filing an amended return with [~~such~~] the department shall also file, within 90 days thereafter, an amended return with the commission which shall contain [~~such~~] the information as it shall require.

(4) If a corporation fails to report a change or correction by the commissioner of internal revenue, other officer of the United States, or other competent authority or fails to file an amended return, any deficiency resulting from [~~such~~] the adjustments may be assessed and collected within three years after said change, correction, or amended return is reported to or filed with the federal government.

(5) If any corporation agrees with the commissioner of internal revenue for an extension, or renewals thereof, of the period for proposing and assessing deficiencies in federal income tax for any year, the period for [~~mailing~~] sending notices of proposed Utah tax deficiencies for such year shall be three years after the return was filed or six months after the date of the expiration of the agreed

period for assessing deficiencies in federal income tax, whichever period expires the later.

Section 66. Section **59-7-521** is amended to read:

59-7-521. Suspension of running of statute of limitations.

The running of the statute of limitations provided in Section 59-7-519 or 59-7-520, on the making of assessments and the beginning of a proceeding for collection by warrant and levy, or a proceeding in court for collection, in respect of any deficiency, shall (after ~~[the mailing of]~~ a notice is sent under Section 59-7-517) be suspended for the period during which the commission is prohibited from making the assessment or beginning proceedings for collection and for 60 days thereafter.

Section 67. Section **59-10-524** is amended to read:

59-10-524. Notice of deficiency.

(1) If the commission determines that there is a deficiency in respect of the tax imposed by this chapter, it shall send notice of ~~[such]~~ the deficiency to the taxpayer ~~[in the manner and with the content provided in Subsection (2)]~~ at the taxpayer's last-known address.

(2) The notice of deficiency shall set forth the details of the deficiency and the manner of its computation. ~~[It shall be mailed, postage prepaid, to the taxpayer at his last known address.]~~

(3) In the case of a joint return filed by husband and wife, ~~[such]~~ the notice of deficiency may be a single joint notice, except that in any case where the commission has been notified in writing by either spouse that separate residences have been established, then in lieu of the single joint notice, a duplicate ~~[original]~~ of the joint notice shall be sent to each spouse at last-known address.

Section 68. Section **59-10-529** is amended to read:

59-10-529. Overpayment of tax -- Credits -- Refunds.

(1) In cases where there has been an overpayment of any tax imposed by this chapter, the amount of overpayment is credited as follows:

(a) against any income tax then due from the taxpayer;

(b) against:

(i) the amount of any judgment against the taxpayer, including one ordering the payment of a fine or of restitution to a victim under Section 76-3-201, obtained through due process of law by

any entity of state government; or

(ii) any child support obligation which is delinquent, as determined by the Office of Recovery Services in the Department of Human Services and after notice and an opportunity for an adjudicative proceeding, as provided in Subsection (2);

(c) as bail, to ensure the appearance of the taxpayer before the appropriate authority to resolve an outstanding warrant against the taxpayer for which bail is due, if a court of competent jurisdiction has not approved an alternative form of payment. This bail may be applied to any fine or forfeiture which is due and related to a warrant which is outstanding on or after February 16, 1984, and in accordance with Subsections (3) and (4).

(2) (a) Subsection (1)(b)(ii) may be exercised only if the Office of Recovery Services has ~~mailed~~ sent written notice to the taxpayer's last-known address or the address on file under Section 62A-11-304.4, stating:

(i) the amount of child support that is past-due as of the date of the notice or other specified date;

(ii) that any overpayment shall be applied to reduce the amount of past-due child support specified in the notice; and

(iii) that the taxpayer may contest the amount of past-due child support specified in the notice by filing a written request for an adjudicative proceeding with the office within 15 days of the notice being sent.

(b) If an overpayment of tax is credited against a past-due child support obligation in accordance with Subsection (1)(b)(ii) in noncash assistance cases, the Office of Recovery Services shall inform the obligee parent in advance if it will first use any portion of the overpayment to satisfy unreimbursed cash assistance or foster care maintenance payments which have been provided to that family.

(c) The Department of Human Services shall establish rules to implement this subsection, including procedures, in accordance with the other provisions of this section, to ensure prompt reimbursement to the taxpayer of any amount of an overpayment of taxes which was credited against a child support obligation in error, and to ensure prompt distribution of properly credited funds to

the obligee parent.

(3) Subsection (1)(c) may be exercised only if:

(a) a court has issued a warrant for the arrest of the taxpayer for failure to post bail, appear, or otherwise satisfy the terms of a citation, summons, or court order; and

(b) a notice of intent to apply the overpayment as bail on the issued warrant has been [~~mailed~~] sent to the person's current address on file with the commission.

(4) (a) The commission shall deliver the overpayment applied as bail to the court that issued the warrant of arrest. The clerk of the court is authorized to endorse the check or commission warrant of payment on behalf of the payees and deposit the monies in the court treasury.

(b) The court receiving the overpayment applied as bail shall order withdrawal of the warrant for arrest of the taxpayer if the case is one for which a personal appearance of the taxpayer is not required and if the dollar amount of the overpayment represents the full dollar amount of bail. In all other cases, the court receiving the overpayment applied as bail is not required to order the withdrawal of the warrant of arrest of the taxpayer during the 40-day period, and the taxpayer may be arrested on the warrant. However, the bail amount shall be reduced by the amount of tax overpayment received by the court.

(c) If the taxpayer fails to respond to the notice described in Subsection (3), or to resolve the warrant within 40 days after the [~~mailing~~] notice was sent under that subsection, the overpayment applied as bail is forfeited and notice of the forfeiture shall be mailed to the taxpayer at the current address on file with the commission. The court may then issue another warrant or allow the original warrant to remain in force if:

(i) the taxpayer has not complied with an order of the court;

(ii) the taxpayer has failed to appear and respond to a criminal charge for which a personal appearance is required; or

(iii) the taxpayer has paid partial but not full bail in a case for which a personal appearance is not required.

(5) If the alleged violations named in the warrant are later resolved in favor of the taxpayer, the bail amount shall be remitted to the taxpayer.

(6) Any balance shall be refunded immediately to the taxpayer.

(7) (a) If a refund or credit is due because the amount of tax deducted and withheld from wages exceeds the actual tax due, a refund or credit may not be made or allowed unless the taxpayer or his legal representative files with the commission a tax return claiming the refund or credit:

(i) within three years from the due date of the return, plus the period of any extension of time for filing the return provided for in Subsection (7)(c); or

(ii) within two years from the date the tax was paid, whichever period is later.

(b) Except as provided in Subsection (7)(d), in other instances where a refund or credit of tax which has not been deducted and withheld from income is due, a credit or refund may not be allowed or made after three years from the time the tax was paid, unless, before the expiration of the period, a claim is filed by the taxpayer or his legal representative.

(c) Beginning on July 1, 1998, the commission shall extend the period for a taxpayer to file a claim under Subsection (7)(a)(i) if:

(i) the time period for filing a claim under Subsection (7)(a) has not expired; and

(ii) the commission and the taxpayer sign a written agreement:

(A) authorizing the extension; and

(B) providing for the length of the extension.

(d) Notwithstanding Subsection (7)(b), beginning on July 1, 1998, the commission shall extend the period for a taxpayer to file a claim under Subsection (7)(b) if:

(i) the three-year period under Subsection (7)(b) has not expired; and

(ii) the commission and the taxpayer sign a written agreement:

(A) authorizing the extension; and

(B) providing for the length of the extension.

(8) The fine and bail forfeiture provisions of this section apply to all warrants and fines issued in cases charging the taxpayer with a felony, a misdemeanor, or an infraction described in this section which are outstanding on or after February 16, 1984.

(9) If the amount allowable as a credit for tax withheld from the taxpayer exceeds the tax to which the credit relates, the excess is considered an overpayment.

(10) A claim for credit or refund of an overpayment which is attributable to the application to the taxpayer of a net operating loss carryback shall be filed within three years from the time the return was due for the taxable year of the loss.

(11) If there has been an overpayment of the tax which is required to be deducted and withheld under Section 59-10-402, a refund shall be made to the employer only to the extent that the amount of overpayment was not deducted and withheld by the employer.

(12) If there is no tax liability for a period in which an amount is paid as income tax, the amount is an overpayment.

(13) If an income tax is assessed or collected after the expiration of the applicable period of limitation, that amount is an overpayment.

(14) (a) If a taxpayer is required to report a change or correction in federal taxable income reported on his federal income tax return, or to report a change or correction which is treated in the same manner as if it were an overpayment for federal income tax purposes, or to file an amended return with the commission, a claim for credit or refund of any resulting overpayment of tax shall be filed by the taxpayer within two years from the date the notice of the change, correction, or amended return was required to be filed with the commission.

(b) If the report or amended return is not filed within 90 days, interest on any resulting refund or credit ceases to accrue after the 90-day period.

(c) The amount of the credit or refund may not exceed the amount of the reduction in tax attributable to the federal change, correction, or items amended on the taxpayer's amended federal income tax return.

(d) Except as specifically provided, this section does not affect the amount or the time within which a claim for credit or refund may be filed.

(15) No credit or refund may be allowed or made if the overpayment is less than \$1.

(16) The amount of the credit or refund may not exceed the tax paid during the three years immediately preceding the filing of the claim, or if no claim is filed, then during the three years immediately preceding the allowance of the credit or refund.

(17) In the case of an overpayment of tax by the employer under the withholding provisions

of this chapter, a refund or credit shall be made to the employer only to the extent that the amount of the overpayment was not deducted and withheld from wages under the provisions of this chapter.

(18) If a taxpayer who is entitled to a refund under this chapter dies, the commission may make payment to the duly appointed executor or administrator of the taxpayer's estate. If there is no executor or administrator, payment may be made to those persons who establish entitlement to inherit the property of the decedent in the proportions set out in Title 75, Uniform Probate Code.

(19) Where an overpayment relates to adjustments to net income referred to in Subsection 59-10-536(3)(c), credit may be allowed or a refund paid any time before the expiration of the period within which a deficiency may be assessed.

(20) An overpayment of a tax imposed by this chapter shall accrue interest at the rate and in the manner prescribed in Section 59-1-402.

Section 69. Section **59-12-107** is amended to read:

59-12-107. Collection, remittance, and payment of tax by vendors and consumers -- Returns -- Direct payment by purchaser of vehicle -- Other liability for collection -- Credits -- Deposit and sale of security -- Penalties.

(1) (a) Each vendor shall pay or collect and remit the sales and use taxes imposed by this chapter if within this state the vendor:

(i) has or utilizes an office, distribution house, sales house, warehouse, service enterprise, or other place of business;

(ii) maintains a stock of goods;

(iii) engages in regular or systematic solicitation of sale of tangible personal property, whether

or not accepted in this state, by the distribution of catalogs, periodicals, advertising flyers, or other advertising by means of print, radio, or television, or by mail, telegraphy, telephone, computer data base, optic, microwave, or other communication system for the purpose of selling, at retail, tangible personal property;

(iv) regularly engages in the delivery of property in this state other than by common carrier or United States mail; or

(v) regularly engages in any activity in connection with the leasing or servicing of property

located within this state.

(b) If none of the conditions listed under Subsection (1)(a) exist, the vendor is not responsible for the collection of the use tax but each person storing, using, or consuming tangible personal property is responsible for remitting the use tax.

(c) Notwithstanding the provisions of Subsection (1)(a), the ownership of property that is located at the premises of a printer's facility with which the retailer has contracted for printing and that consists of the final printed product, property that becomes a part of the final printed product, or copy from which the printed product is produced, shall not result in the retailer being considered to have or maintain an office, distribution house, sales house, warehouse, service enterprise, or other place of business, or to maintain a stock of goods, within this state.

(2) (a) Each vendor shall collect the sales or use tax from the purchaser.

(b) A vendor may not collect as tax an amount, without regard to fractional parts of one cent, in excess of the tax computed at the rates prescribed by this chapter.

(c) (i) Each vendor shall:

(A) give the purchaser a receipt for the use tax collected; or

(B) bill the use tax as a separate item and declare the name of this state and the vendor's use tax license number on the invoice for the sale.

(ii) The receipt or invoice is prima facie evidence that the vendor has collected the use tax and relieves the purchaser of the liability for reporting the use tax to the commission as a consumer.

(d) A vendor is not required to maintain a separate account for the tax collected, but is considered to be a person charged with receipt, safekeeping, and transfer of public moneys.

(e) Taxes collected by a vendor pursuant to this chapter shall be held in trust for the benefit of the state and for payment to the commission in the manner and at the time provided for in this chapter.

(f) If any vendor, during any reporting period, collects as a tax an amount in excess of the lawful state and local percentage of total taxable sales allowed under this part and Part 2, the vendor shall remit to the commission the full amount of the tax imposed under this part and Part 2 plus any excess.

(g) If the accounting methods regularly employed by the vendor in the transaction of the vendor's business are such that reports of sales made during a calendar month or quarterly period will impose unnecessary hardships, the commission may accept reports at intervals that will, in its opinion, better suit the convenience of the taxpayer or vendor and will not jeopardize collection of the tax.

(3) Each person storing, using, or consuming tangible personal property under Subsection 59-12-103(1) is liable for the use tax imposed under this chapter.

(4) (a) Except as provided in Subsection (5) and in Section 59-12-108, the sales or use tax imposed by this chapter is due and payable to the commission quarterly on or before the last day of the month next succeeding each calendar quarterly period.

(b) Each vendor shall, on or before the last day of the month next succeeding each calendar quarterly period, file with the commission a return for the preceding quarterly period. The vendor shall remit with the return the amount of the tax required under this chapter to be collected or paid for the period covered by the return.

(c) Each return shall contain information and be in a form the commission prescribes by rule.

(d) The sales tax as computed in the return shall be based upon the total nonexempt sales made during the period, including both cash and charge sales.

(e) The use tax as computed in the return shall be based upon the total amount of sales or purchases for storage, use, or other consumption in this state made during the period, including both by cash and by charge.

(f) The commission may by rule extend the time for making returns and paying the taxes. No extension may be for more than 90 days.

(g) The commission may require returns and payment of the tax to be made for other than quarterly periods if it considers it necessary in order to ensure the payment of the tax imposed by this chapter.

(5) On each vehicle sale made by other than a regular licensed vehicle dealer, the purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to titling or registration under the laws of this state. The commission shall collect the tax when the vehicle is titled or registered.

(6) If any sale of tangible personal property or any other taxable item or service under Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler is not responsible for the collection or payment of the tax imposed on the sale if the retailer represents that the personal property is purchased by the retailer for resale and the personal property thereafter is not resold. Instead, the retailer is solely liable for the tax.

(7) If any sale of property or service subject to the tax is made to a person prepaying sales or use tax in accordance with Title 63, Chapter 51, Resource Development, or to a contractor or subcontractor of that person, the person to whom such payment or consideration is payable is not responsible for the collection or payment of the sales or use tax if the person prepaying the sales or use tax represents that the amount prepaid as sales or use tax has not been fully credited against sales or use tax due and payable under the rules promulgated by the commission. Instead, the person prepaying the sales or use tax is solely liable for the tax.

(8) Credit is allowed for prepaid taxes and for taxes paid on that portion of an account determined to be worthless and actually charged off for income tax purposes or on the portion of the purchase price remaining unpaid at the time of a repossession made under the terms of a conditional sales contract.

(9) (a) The commission may require any person subject to the tax imposed under this chapter to deposit with it security as the commission determines, if the commission considers it necessary to ensure compliance with this chapter.

(b) The commission may sell the security at public sale if it becomes necessary to do so in order to recover any tax, interest, or penalty due.

(c) The commission shall serve notice of the sale upon the person who deposited the securities [~~either personally or by mail. If the notice is by mail, notice~~]. Notice sent to the last-known address as it appears in the records of the commission is sufficient for the purposes of this requirement.

(d) The commission shall return to the person who deposited the security any amount of the sale proceeds that exceed the amounts due under this chapter.

(10) (a) A vendor may not, with intent to evade any tax, fail to timely remit the full amount

of tax required by this chapter. A violation of this section is punishable as provided in Section 59-1-401.

(b) Each person who fails to pay any tax to the state or any amount of tax required to be paid to the state, except amounts determined to be due by the commission under Sections 59-12-110 and 59-12-111, within the time required by this chapter, or who fails to file any return as required by this chapter, shall pay, in addition to the tax, penalties and interest as provided in Section 59-12-110.

(c) For purposes of prosecution under this section, each quarterly tax period in which a vendor, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the tax required to be remitted, constitutes a separate offense.

Section 70. Section **59-12-111** is amended to read:

59-12-111. Licensee to keep records -- Failure to make return -- Penalties.

(1) Each person engaging or continuing in any business in this state for the transaction of which a license is required under this chapter shall:

(a) keep and preserve suitable records of all sales made by the person and other books or accounts necessary to determine the amount of tax for the collection of which the person is liable under this chapter in a form prescribed by the commission;

(b) keep and preserve for a period of three years all such books, invoices, and other records; and

(c) open such records for examination at any time by the commission or its duly authorized agent.

(2) If no return is made by any person required to make returns as provided in this chapter, the commission shall give written notices [~~by mail postpaid~~] to [~~such~~] the person to make [~~such~~] the return within a reasonable time to be designated by the commission or, alternatively, the commission may make an estimate for the period or periods or any part thereof in respect to which [~~such~~] the person failed to make a return, based upon any information in its possession or that may come into its possession of the total sales subject to the tax imposed by this chapter. Upon the basis of this estimate the commission may compute and determine the amount of tax required to be paid to the state. [~~Such~~] The return shall be prima facie correct for the purposes of this chapter and the amount

of the tax due thereon shall be subject to the penalties and interest as provided in Sections 59-1-401 and 59-1-402. Promptly thereafter the commission shall give to [~~such~~] the person written notice [~~by mail postpaid~~] of [~~such~~] the estimate, determination, penalty, and interest.

[~~(2)~~] (3) If any person not holding a sales tax license under Section 59-12-106 or a valid use tax registration certificate makes a purchase of tangible personal property for storage, use, or other consumption in this state and fails to file a return or pay the tax due within 170 days from the time the return is due, this person shall pay a penalty as provided in Section 59-1-401 plus interest at the rate and in the manner prescribed in Section 59-1-402 and all other penalties and interest as provided by this title.

Section 71. Section **59-13-202** is amended to read:

59-13-202. Refund of tax for agricultural uses on income and corporate franchise tax returns -- Application for permit for refund -- Division of Finance to pay claims -- Rules permitted to enforce part -- Penalties.

(1) Any person who purchases and uses any motor fuel within the state for the purpose of operating or propelling stationary farm engines and self-propelled farm machinery used for nonhighway agricultural uses, and who has paid the tax on the motor fuel as provided by this part, is entitled to a refund of the tax subject to the conditions and limitations provided under this part.

(2) Every person desiring a nonhighway agricultural use refund under this part shall claim the refundable credit on the state income tax return or corporate franchise tax return. A person not subject to filing a Utah income tax return or corporate franchise tax return shall obtain a permit and file claims on a calendar year basis. Any person claiming a refundable motor fuel tax credit is required

to furnish any or all of the information outlined in this section upon request of the commission.

Credit

is allowed only on purchases on which tax is paid during the taxable year covered by the tax return.

(3) In order to obtain a permit for a refund of motor fuel tax paid, an application shall be filed containing:

- (a) the name of applicant;
- (b) the applicant's address;
- (c) location and number of acres owned and operated, location and number of acres rented

and operated, the latter of which shall be verified by ~~[affidavit]~~ a signed statement from the legal owner;

(d) number of acres planted to each crop, type of soil, and whether irrigated or dry; and

(e) make, size, type of fuel used, and power rating of each piece of equipment using fuel.

If the applicant is an operator of self-propelled or tractor-pulled farm machinery with which the applicant works for hire doing custom jobs for other farmers, the application shall include information the commission requires and shall all be contained in, and be considered part of, the original application. The applicant shall also file with the application a certificate from the county assessor showing each piece of equipment using fuel. This original application and all information contained in it constitutes a permanent file with the commission in the name of the applicant.

(4) Any person claiming the right to a refund of motor fuel tax paid shall file a claim with the commission by April 15 of each year for the refund for the previous calendar year. The claim shall state the name and address of the claimant, the number of gallons of motor fuel purchased for nonhighway agricultural uses, and the amount paid for the motor fuel. The applicant shall ~~[support the claim by submitting]~~ retain the original invoice ~~[or copy of the original invoice]~~ to support the claim. No more than one claim for a tax refund may be filed annually by each user of motor fuel purchased for nonhighway agricultural uses.

(5) Upon commission approval of the claim for a refund, the Division of Finance shall pay the amount found due to the claimant. The total amount of claims for refunds shall be paid from motor fuel taxes.

(6) The commission may promulgate rules to enforce this part, and may refuse to accept as evidence of purchase or payment any instruments which show alteration or which fail to indicate the quantity of the purchase, the price of the motor fuel, a statement that it is purchased for purposes other than transportation, and the date of purchase and delivery. If the commission is not satisfied with the evidence submitted in connection with the claim, it may reject the claim or require additional evidence.

(7) Any person aggrieved by the decision of the commission with respect to a credit or refund may file a request for agency action, requesting a hearing before the commission.

(8) Any person who makes any false claim, report, or statement, either as claimant, agent, or creditor, with intent to defraud or secure a refund to which the claimant is not entitled, is subject to the criminal penalties provided under Section 59-1-401, and the commission shall initiate the filing of a complaint for alleged violations of this part. In addition to these penalties, the person may not receive any refund as a claimant or as a creditor of a claimant for refund for a period of five years.

(9) Refunds to which taxpayers are entitled under this part shall be paid from the Transportation Fund.

Section 72. Section **59-13-301** is amended to read:

59-13-301. Tax basis -- Rate -- Exemptions -- Revenue deposited with treasurer and credited to Transportation Fund.

(1) (a) Except as provided in Subsections (2) and (3) and Section 59-13-304, a tax is imposed at the same rate imposed under Subsection 59-13-201(1)(a) on the:

- (i) removal of undyed diesel fuel from any refinery;
- (ii) removal of undyed diesel fuel from any terminal;
- (iii) entry into the state of any undyed diesel fuel for consumption, use, sale, or warehousing;
- (iv) sale of undyed diesel fuel to any person who is not registered as a supplier under this part

unless the tax has been collected under this section;

- (v) any untaxed special fuel blended with undyed diesel fuel; or
- (vi) use of untaxed special fuel, other than a clean special fuel.

(b) The tax imposed under this section shall only be imposed once upon any special fuel.

(2) (a) No special fuel tax is imposed or collected upon dyed diesel fuel which:

(i) is sold or used for any purpose other than to operate or propel a motor vehicle upon the public highways of the state, but this exemption applies only in those cases where the purchasers or the users of special fuel establish to the satisfaction of the commission that the special fuel was used for purposes other than to operate a motor vehicle upon the public highways of the state; or

(ii) is sold to this state or any of its political subdivisions.

(b) No special fuel tax is imposed on undyed diesel fuel which:

(i) is sold to the United States government or any of its instrumentalities or to this state or

any of its political subdivisions;

(ii) is exported from this state if proof of actual exportation on forms prescribed by the commission is made within 180 days after exportation;

(iii) is used in a vehicle off-highway;

(iv) is used to operate a power take-off unit of a vehicle;

(v) is used for off-highway agricultural uses;

(vi) is used in a separately fueled engine on a vehicle that does not propel the vehicle upon the highways of the state; or

(vii) is used in machinery and equipment not registered and not required to be registered for highway use.

(3) No tax is imposed or collected on special fuel if it is:

(a) purchased for business use in machinery and equipment not registered and not required to be registered for highway use; and

(b) used pursuant to the conditions of a state implementation plan approved under Title 19, Chapter 2, Air Conservation Act.

(4) Upon request of a buyer meeting the requirements under Subsection (3), the Division of Air Quality shall issue an exemption certificate that may be shown to a seller.

(5) The special fuel tax shall be paid by the supplier.

(6) (a) The special fuel tax shall be paid by every user who is required by Sections 59-13-303 and 59-13-305 to obtain a special fuel permit and file special fuel tax reports.

(b) The user shall receive a refundable credit for special fuel taxes paid on purchases which are delivered into vehicles and for which special fuel tax liability is reported.

(7) (a) All revenue received by the commission from taxes and license fees under this part shall be deposited daily with the state treasurer and credited to the Transportation Fund.

(b) An appropriation from the Transportation Fund shall be made to the commission to cover expenses incurred in the administration and enforcement of this part and the collection of the special fuel tax.

(8) The commission may either collect no tax on special fuel exported from the state or, upon

application, refund the tax paid.

(9) (a) The United States government or any of its instrumentalities, this state, or a political subdivision of this state that has purchased special fuel from a supplier or from a retail dealer of special fuel and has paid the tax on the special fuel as provided in this section is entitled to a refund of the tax and may file with the commission for a quarterly refund in a manner prescribed by the commission.

(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules governing the application and refund provided for in Subsection (9)(a).

(10) (a) The purchaser shall pay the tax on diesel fuel purchased for uses under Subsections (2)(b)(i), (iii), (iv), (v), (vi), and (vii) and apply for a refund for the tax paid as provided in Subsections (9) and (10).

(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules governing the application and refund for off-highway and nonhighway uses provided under Subsections (2)(b)(iii), (iv), (vi), and (vii).

(c) A refund of tax paid under this part on diesel fuel used for nonhighway agricultural uses shall be made in accordance with the tax return procedures under Section 59-13-202.

Section 73. Section **59-13-313** is amended to read:

59-13-313. Commission to enforce the laws -- Estimations of tax -- Penalties -- Notice of determinations -- Information sharing with other states -- Assessment procedures.

(1) (a) The commission is charged with the enforcement of this part and may prescribe rules relating to administration and enforcement of this part.

(b) The commission may coordinate with state and federal agencies in the enforcement of this part.

(c) Enforcement procedures may include checking diesel fuel dye compliance of storage facilities and tanks of vehicles, in a manner consistent with state and federal law.

(2) (a) If the commission has reason to question the report filed or the amount of special fuel tax paid to the state by any user or supplier, it may compute and determine the amount to be paid based upon the best information available to it.

(b) Any added amount of special fuel tax determined to be due under this section shall have added to it a penalty as provided under Section 59-1-401, and shall bear interest at the rate and in the manner prescribed in Section 59-1-402.

(c) The commission shall give to the user or supplier written notice of its determination. The notice may be served personally or ~~[by mail when addressed]~~ sent to the user or supplier at the user or supplier's last-known address as it appears in the records of the commission.

(3) The commission may, upon the duly received request of the officials to whom the enforcement of the special fuel laws of any other state are entrusted, forward to those officials any information which the commission may have in its possession relative to the delivery, removal, production, manufacture, refining, compounding, receipt, sale, use, transportation, or shipment of special fuel by any person.

(4) (a) Except as provided in Subsections (4)(c) through (f), the commission shall assess the amount of taxes imposed under this part, and any penalties and interest, within three years after a taxpayer files a return.

(b) Except as provided in Subsections (4)(c) through (f), if the commission does not make an assessment under Subsection (4)(a) within three years, the commission may not commence a proceeding for the collection of the taxes after the expiration of the three-year period.

(c) Notwithstanding Subsections (4)(a) and (b), the commission may make an assessment or commence a proceeding to collect a tax at any time if a deficiency is due to:

- (i) fraud; or
- (ii) failure to file a return.

(d) Notwithstanding Subsections (4)(a) and (b), beginning on July 1, 1998, the commission may extend the period to make an assessment or to commence a proceeding to collect the tax under this part if:

- (i) the three-year period under this Subsection (4) has not expired; and
- (ii) the commission and the taxpayer sign a written agreement:
 - (A) authorizing the extension; and
 - (B) providing for the length of the extension.

(e) If the commission delays an audit at the request of a taxpayer, the commission may make an assessment as provided in Subsection (4)(f) if:

- (i) the taxpayer subsequently refuses to agree to an extension request by the commission; and
- (ii) the three-year period under this Subsection (4) expires before the commission completes the audit.

(f) An assessment under Subsection (4)(e) shall be:

- (i) for the time period for which the commission could not make an assessment because of the expiration of the three-year period; and
- (ii) in an amount equal to the difference between:
 - (A) the commission's estimate of the amount of taxes the taxpayer would have been assessed for the time period described in Subsection (4)(f)(i); and
 - (B) the amount of taxes the taxpayer actually paid for the time period described in Subsection (4)(f)(i).

Section 74. Section **59-13-316** is amended to read:

59-13-316. Neglect or refusal to report -- Estimations -- Penalties -- Notice to user or supplier.

(1) If any user or supplier neglects or refuses to make a report required by this part, the commission shall make an estimate based on the best information available to it, for the months in which the user or supplier failed to make a report, or for the amount of special fuel sold or used by the user or supplier subject to the special fuel tax.

(2) On the basis of the estimate, the commission shall compute and determine the amount required to be paid to the state, adding to this sum a penalty as provided under Section 59-1-401, and interest at the rate and in the manner prescribed in Section 59-1-402.

(3) The commission shall give to the user or supplier written notice of the estimate [~~and determination personally, or by mail when addressed to the user or supplier at the user or supplier's last-known address~~]. The notice may be served personally or sent to the user or supplier at the user or supplier's last-known address as it appears in the records of the commission.

Section 75. Section **61-2-7.1** is amended to read:

61-2-7.1. Change of address -- Failure to notify.

Each licensee or certificate holder shall ~~[notify]~~ send the division ~~[in writing]~~ a signed statement notifying the division of any change of principal business location or home street address within ten business days of the change. In providing an address to the division a physical location or street address must be provided. Failure to notify the division of a change of business location is separate grounds for disciplinary action against the licensee or certificate holder. A licensee or certificate holder will be considered to have received any notification which has been ~~[mailed]~~ sent to the last address furnished to the division by the licensee.

Section 76. Section **61-2-7.2** is amended to read:

61-2-7.2. Reporting requirements.

~~[The following must be reported in writing to the division]~~ Principal brokers, associate brokers, and sales agents shall send the division a signed statement notifying the division of the following within ten business days:

- (1) conviction of any criminal offense; or
- (2) filing a personal or brokerage bankruptcy.

Section 77. Section **61-2-8** is amended to read:

61-2-8. Discharge of associate broker or sales agent by principal broker -- Notice.

If an associate broker or sales agent is discharged by a principal broker, the principal broker shall, within three days, ~~[notify]~~ send the division ~~[in writing]~~ a signed statement notifying the division of the discharge. The principal broker shall address a communication to the last-known residence address of that associate broker or sales agent advising him that notice of his termination has been delivered or ~~[mailed]~~ sent to the division. It is unlawful for any associate broker or sales agent to perform any of the acts under this chapter, directly or indirectly, from and after the date of receipt of the termination notice until affiliation with a principal broker has been established.

Section 78. Section **61-2a-5** is amended to read:

61-2a-5. Notice to division -- Judgment against real estate licensee -- Fraud, misrepresentation, or deceit -- Verified petition for order directing payment from fund -- Limitations and procedure.

(1) A person may bring a claim against the Real Estate Education, Research, and Recovery Fund only if he [~~provides written notice~~] sends a signed notification to the Division of Real Estate at the time he files an action against a real estate licensee alleging fraud, misrepresentation, or deceit. Within 30 days of receipt of the notice, the division shall have an unconditional right to intervene in the action. If the person making a claim against the fund obtains a final judgment in a court of competent jurisdiction in this state against the licensee based upon fraud, misrepresentation, or deceit in any real estate transaction, the person making the claim may, upon termination of all proceedings including appeals, file a verified petition in the court where the judgment was entered for an order directing payment from the Real Estate Education, Research, and Recovery Fund for the uncollected actual damages included in the judgment and unpaid. Recovery from the fund may not include punitive damages, attorney's fees, interest, or court costs. Regardless of the number of claimants or parcels of real estate involved in a transaction, the liability of the fund may not exceed \$10,000 for a single transaction and \$50,000 for any one licensee.

(2) A copy of the petition shall be served upon the Division of Real Estate of the Department of Commerce, and an affidavit of the service shall be filed with the court.

(3) The court shall conduct a hearing on the petition within 30 days after service. The petitioner shall recover from the fund only if he shows all of the following:

- (a) He is not the spouse of the judgment debtor or the personal representative of the spouse.
- (b) He has complied with this chapter.
- (c) He has obtained a final judgment in the manner prescribed under this section, indicating the amount of the judgment awarded.
- (d) He has proved the amount still owing on the judgment at the date of the petition.
- (e) He has had a writ of execution issued upon the judgment, and the officer executing the writ has made a return showing that no property subject to execution in satisfaction of the judgment could be found. If execution is levied against the property of the judgment debtor, the petitioner shall show that the amount realized was insufficient to satisfy the judgment, and shall indicate the amount realized and the balance remaining on the judgment after application of the amount realized.
- (f) He has made reasonable searches and inquiries to ascertain whether the judgment debtor

has any interest in property, real or personal, that may satisfy the judgment, and he has exercised reasonable diligence to secure payment of the judgment from the assets of the judgment debtor.

(4) If the petitioner satisfies the court that it is not practicable for him to comply with one or more of the requirements enumerated in Subsections (3) (e) and (f), the court may waive those requirements.

(5) A judgment that is the basis for a claim against the fund may not have been discharged in bankruptcy. In the case of a bankruptcy proceeding that is still open or that is commenced during the pendency of the claim, the claimant shall obtain an order from the bankruptcy court declaring the judgment and debt to be nondischargeable.

Section 79. Section **61-2b-6** is amended to read:

61-2b-6. Duties and powers of division.

(1) The division shall have the following powers and duties:

(a) The division shall:

(i) receive applications for licensing as a state-licensed appraiser;

(ii) establish appropriate administrative procedures for the processing of licensing applications;

(iii) issue licenses to qualified applicants pursuant to the provisions of this chapter; and

(iv) maintain a registry of the names and addresses of individuals who are currently licensed as state-licensed appraisers under this chapter.

(b) The division shall:

(i) receive applications for certification as a state-certified general appraiser or state-certified residential appraiser under this chapter;

(ii) establish appropriate administrative procedures for the processing of certification applications;

(iii) issue certificates to qualified applicants pursuant to the provisions of this chapter; and

(iv) maintain a registry of the names and addresses of individuals who are currently registered, licensed, or certified under this chapter.

(c) The division shall hold public hearings under the direction of the board.

(d) (i) The division shall, at its option, solicit bids and enter into contracts with one or more educational testing services or organizations for the preparation of a bank of questions and answers approved by the board for licensing and certification examinations; and

(ii) administer or contract for the administration of licensing and certification examinations as may be required to carry out its responsibilities under this chapter.

(e) The division shall provide administrative assistance to the board by providing to the board the facilities, equipment, supplies, and personnel that are required to enable the board to carry out its responsibilities under this chapter.

(f) The division shall assist the board in upgrading and improving the quality of the education and examinations required under this chapter.

(g) The division shall assist the board in improving the quality of the continuing education available to persons registered, licensed, and certified under this chapter.

(h) The division shall assist the board with respect to the proper interpretation or explanation of the Uniform Standards of Professional Appraisal Practice as required by Section 61-2b-27 when an interpretation or explanation becomes necessary in the enforcement of this chapter.

(i) The division shall collect all registration, licensing, and certification fees required or permitted by this chapter.

(j) The division may:

(i) investigate complaints against persons registered, licensed, or certified under this chapter;

(ii) subpoena witnesses and the production of books, documents, records, and other papers;

(iii) administer oaths; and

(iv) take testimony and receive evidence concerning all matters within its jurisdiction.

(k) The division may promote research and conduct studies relating to the profession of real estate appraising and sponsor real estate appraisal educational activities.

(l) The division shall adopt, with the concurrence of the board, rules for the administration of this chapter pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act, that are not inconsistent with the provisions of this chapter or the constitution and laws of this state or of the United States.

(m) The division shall employ an appropriate staff to investigate allegations that persons registered, licensed, or certified under this chapter failed to comply with the terms and provisions of this chapter.

(n) The division may employ such other professional, clerical, and technical staff as may be necessary to properly administer the work of the division under this chapter.

(2) (a) The division shall register expert witnesses who are not otherwise registered, licensed, or certified under this chapter to appear in all administrative and judicial tax proceedings to provide evidence related to the valuation of real property that is assessed by the tax commission, provided that

the:

(i) registration is limited to a specific proceeding;

(ii) registration is valid until the proceeding becomes final;

(iii) applicant pays a registration fee to the division;

(iv) applicant provides the applicant's name, address, occupation, and professional credentials;

and

(v) applicant [~~signs~~] provides a [~~sworn~~] notarized statement that:

(A) the applicant is competent to render an appraisal and to testify as an expert witness in the proceeding; and

(B) the appraisal and testimony to be offered shall be in accordance with the Uniform Standards of Professional Appraisal Practice adopted by the board.

(b) The provisions of Subsection (2)(a) shall be effective for all administrative and judicial property tax proceedings related to the valuation of real property that is assessed by the tax commission, including those filed but which are not final as of May 3, 1994.

(3) The division shall be immune from any civil action or criminal prosecution for initiating or assisting in any lawful investigation of the actions of or participating in any disciplinary proceeding concerning a person registered, licensed, or certified pursuant to this chapter if the action is taken without malicious intent and in the reasonable belief that the action was taken pursuant to the powers and duties vested in the members of the division under this chapter.

Section 80. Section **61-2b-18** is amended to read:

61-2b-18. Application for certification, registration, or licensure.

(1) Applications for original certification, registration as an expert witness, or licensure and renewal of certification, registration, or licensure shall be [~~made in writing~~] sent to the division on forms approved by the division.

(2) The payment of the appropriate fee, as fixed by the division with the concurrence of the board in accordance with Section 63-38-3.2, must accompany all applications for original certification, registration as an expert witness, or licensure and renewal of certification, registration, or licensure.

(3) (a) At the time of filing an application for original certification, registration as an expert witness, or licensure or for renewal of certification, registration, or licensure, each applicant shall sign a pledge to comply with the Uniform Standards of Professional Appraisal Practice and the ethical rules to be observed by an appraiser that are established under Section 61-2b-27 for certified, registered, or licensed appraisers under this chapter.

(b) Each applicant shall also certify that he understands the types of misconduct, as set forth in this chapter, for which disciplinary proceedings may be initiated against persons certified, registered, or licensed under this chapter.

Section 81. Section **61-2b-26** is amended to read:

61-2b-26. Principal place of business -- Display of documents.

(1) Each person registered, licensed, or certified under this chapter shall designate and maintain a principal place of business and shall conspicuously display his registration, license, or certification.

(2) Upon any change of his principal business location or home address, a person registered, licensed, or certified under this chapter shall promptly [~~give notice in writing to~~] send the division a signed statement notifying the division of any change within ten business days of the change.

(3) A nonresident registrant, licensee, or certificate holder is not required to maintain a place of business in this state if he maintains an active place of business in his state of domicile.

Section 82. Section **61-2b-27** is amended to read:

61-2b-27. Professional conduct -- Uniform standards.

(1) (a) Each person registered, licensed, or certified under this chapter must comply with generally accepted standards of professional appraisal practice and generally accepted ethical rules to be observed by a real estate appraiser.

(b) Generally accepted standards of professional appraisal practice are currently evidenced by the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Foundation.

(c) After a public hearing held in accordance with the provisions of Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the board shall adopt and may make modifications of or additions to the Uniform Standards of Professional Appraisal Practice as the board considers appropriate to comply with the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(2) If the Appraisal Standards Board of the Appraisal Foundation modifies the Uniform Standards of Professional Appraisal Practice, issues supplemental appraisal standards which it considers appropriate for residential real estate appraisers or for general real estate appraisers, or issues ethical rules to be observed by a real estate appraiser and requests the board to consider the adoption of the modified or supplemental standards or ethical rules, the board shall schedule a public hearing pursuant to the provisions of Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for the purpose of deciding whether or not it should require the modified or supplemental standards or the ethical rules to be observed by persons registered, licensed, or certified under this chapter.

(3) If, after the notice and public hearing the board finds that the modified or supplemental standards or the ethical rules issued by the Appraisal Standards Board of the Appraisal Foundation are appropriate for persons registered, licensed, or certified under this chapter, the board shall recommend rules requiring all persons registered, licensed, or certified under this chapter to observe the modified or supplemental standards or the ethical rules.

(4) A copy of each such rule adopted by the division shall be [~~mailed~~] sent to the business address of each person currently registered, licensed, or certified under this chapter.

Section 83. Section **63-56-5** is amended to read:

63-56-5. Definitions.

As used in this chapter:

(1) "Architect-engineer services" are those professional services within the scope of the practice of architecture as defined in Section 58-3a-102, or professional engineering as defined in Section 58-22-102.

(2) "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.

(3) "Change order" means a written order signed by the procurement officer, directing the contractor to suspend work or make changes, which the appropriate clauses of the contract authorize the procurement officer to order without the consent of the contractor or any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.

(4) (a) "Construction" means the process of building, renovation, alteration, improvement, or repair of any public building or public work.

(b) "Construction" does not mean the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.

(5) (a) "Construction Manager/General Contractor" means any contractor who enters into a contract for the management of a construction project when that contract allows the contractor to subcontract for additional labor and materials that were not included in the contractor's cost proposal submitted at the time of the procurement of the Construction Manager/General Contractor's services.

(b) "Construction Manager/General Contractor" does not mean a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of construction is to meet subcontracted portions of change orders approved within the scope of the project.

(6) "Contract" means any state agreement for the procurement or disposal of supplies, services, or construction.

(7) "Cooperative purchasing" means procurement conducted by, or on behalf of, more than one public procurement unit, or by a public procurement unit with an external procurement unit.

(8) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed

for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

(9) (a) "Design-build" means the procurement of architect-engineer services and construction by the use of a single contract with the design-build provider.

(b) This method of design and construction can include the design-build provider supplying the site as part of the contract.

(10) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is either published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

(11) "External procurement unit" means any buying organization not located in this state which, if located in this state, would qualify as a public procurement unit. An agency of the United States is an external procurement unit.

(12) "Grant" means the furnishing by the state or by any other public or private source assistance, whether financial or otherwise, to any person to support a program authorized by law. It does not include an award whose primary purpose is to procure an end product, whether in the form of supplies, services, or construction. A contract resulting from the award is not a grant but a procurement contract.

(13) "Invitation for bids" means all documents, whether attached or incorporated by reference, utilized for soliciting bids.

(14) "Local public procurement unit" means any political subdivision or institution of higher education of the state or public agency of any subdivision, public authority, educational, health, or other institution, and to the extent provided by law, any other entity which expends public funds for the procurement of supplies, services, and construction, but not counties, municipalities, political subdivisions created by counties or municipalities under the Interlocal Cooperation Act, the Utah

Housing Finance Agency, the Utah Technology Finance Corporation, or the Legislature and its staff offices. It includes two or more local public procurement units acting under legislation which authorizes intergovernmental cooperation.

(15) "Person" means any business, individual, union, committee, club, other organization, or group of individuals, not including a state agency or a local public procurement unit.

(16) "Policy board" means the procurement policy board created by Section 63-56-6.

(17) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

(18) "Procurement" means buying, purchasing, renting, leasing, leasing with an option to purchase, or otherwise acquiring any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any supply, service, or construction, including description of requirements, selection, and solicitation of sources, preparation, and award of a contract, and all phases of contract administration.

(19) "Procurement officer" means any person or board duly authorized to enter into and administer contracts and make written determinations with respect thereto. It also includes an authorized representative acting within the limits of authority.

(20) "Public procurement unit" means either a local public procurement unit or a state public procurement unit.

(21) "Purchase description" means the words used in a solicitation to describe the supplies, services, or construction to be purchased, and includes specifications attached to or made a part of the solicitation.

(22) "Purchasing agency" means any state agency other than the Division of Purchasing and General Services that is authorized by this chapter or its implementing regulations, or by delegation from the chief procurement officer, to enter into contracts.

(23) "Request for proposals" means all documents, whether attached or incorporated by reference, used for soliciting proposals.

(24) "Responsible bidder or offeror" means a person who has the capability in all respects to perform fully the contract requirements and who has the integrity and reliability which will assure

good faith performance.

(25) "Responsive bidder" means a person who has submitted a bid which conforms in all material respects to the invitation for bids.

(26) "Sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.

~~[(26)]~~ (27) "Services" means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. It does not include employment agreements or collective bargaining agreements.

~~[(27)]~~ (28) "Specification" means any description of the physical or functional characteristics, or of the nature of a supply, service, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.

~~[(28)]~~ (29) "State agency" means any department, division, commission, council, board, bureau, committee, institution, government corporation, or other establishment or official of this state.

~~[(29)]~~ (30) "State public procurement unit" means the Division of Purchasing and General Services and any other purchasing agency of this state.

~~[(30)]~~ (31) "Supplies" means all property, including equipment, materials, and printing.

~~[(31)]~~ (32) "Using agency" means any state agency which utilizes any supplies, services, or construction procured under this chapter.

Section 84. Section **72-1-102** is amended to read:

72-1-102. Definitions.

As used in this title:

(1) "Commission" means the Transportation Commission created under Section 72-1-301.

(2) "Construction" means the construction, reconstruction, replacement, and improvement of the highways, including the acquisition of rights-of-way and material sites.

(3) "Department" means the Department of Transportation created in Section 72-1-201.

(4) "Executive director" means the executive director of the department appointed under

Section 72-1-202.

(5) "Farm tractor" has the meaning set forth in Section 41-1a-102.

(6) "Federal aid primary highway" means that portion of connected main highways located within this state officially designated by the department and approved by the United States Secretary of Transportation under Title 23, Highways, U.S.C.

(7) "Highway" means any public road, street, alley, lane, court, place, viaduct, tunnel, culvert, bridge, or structure laid out or erected for public use, or dedicated or abandoned to the public, or made public in an action for the partition of real property, including the entire area within the right-of-way.

(8) "Highway authority" means the department or the legislative, executive, or governing body of a county or municipality.

(9) "Implement of husbandry" has the meaning set forth in Section 41-1a-102.

(10) "Interstate system" means any highway officially designated by the department and included as part of the national interstate and defense highways, as provided in the Federal Aid Highway Act of 1956 and any supplemental acts or amendments.

(11) "Limited-access facility" means a highway especially designated for through traffic, and over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

(12) "Motor vehicle" has the same meaning set forth in Section 41-1a-102.

(13) "Municipality" has the same meaning set forth in Section 10-1-104.

(14) "National highway systems highways" means that portion of connected main highways located within this state officially designated by the department and approved by the United States Secretary of Transportation under Title 23, Highways, U.S.C.

(15) (a) "Port-of-entry" means a fixed or temporary facility constructed, operated, and maintained by the department where drivers, vehicles, and vehicle loads are checked or inspected for compliance with state and federal laws as specified in Section 72-9-501.

(b) "Port-of-entry" includes inspection and checking stations and weigh stations.

(16) "Port-of-entry agent" means a person employed at a port-of-entry to perform the duties

specified in Section 72-9-501.

(17) "Right-of-way" means real property or an interest in real property, usually in a strip, acquired for or devoted to a highway.

(18) "Sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.

~~[(18)]~~ (19) "Semitrailer" has the meaning set forth in Section 41-1a-102.

~~[(19)]~~ (20) "SR" means state route and has the same meaning as state highway as defined in this section.

~~[(20)]~~ (21) "State highway" means those highways designated as state highways in Title 72, Chapter 4, Designation of State Highways.

~~[(21)]~~ (22) "State highway purposes" has the meaning set forth in Section 72-5-102.

~~[(22)]~~ (23) "State transportation systems" means all streets, alleys, roads, highways, and thoroughfares of any kind, including connected structures, airports, and all other modes and forms of conveyance used by the public.

~~[(23)]~~ (24) "Trailer" has the meaning set forth in Section 41-1a-102.

~~[(24)]~~ (25) "Truck tractor" has the meaning set forth in Section 41-1a-102.

~~[(25)]~~ (26) "UDOT" means the Utah Department of Transportation.

~~[(26)]~~ (27) "Vehicle" has the same meaning set forth in Section 41-1a-102.

Section 85. Section **78-7-34** is enacted to read:

78-7-34. Electronic writing.

(1) Except as restricted by the Constitution of the United States or of this state, any writing required or permitted by this code to be filed with or prepared by a court may be filed or prepared in an electronic medium and by electronic transmission subject to the ability of the recipient to accept and process the electronic writing.

(2) Any writing required to be signed that is filed with or prepared by a court in an electronic medium or by electronic transmission shall be signed by digital signature in accordance with Title 46, Chapter 3, Utah Digital Signature Act.