

**Representative Ty McCartney** proposes to substitute the following bill:

**PERSONS WITH A DISABILITY -**

**TECHNICAL REVISIONS**

2001 GENERAL SESSION

STATE OF UTAH

**Sponsor: Ty McCartney**

**This act modifies the Utah Code to make technical corrections to provisions relating to a person with a disability or impairment. The act restates the federal standard for the definition of a person with a disability. The act expands the Rights and Privileges of Blind and Disabled Persons Act by allowing any type of service animal to be used as a guide. The act also makes other technical changes.**

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

AMENDS:

**9-4-602**, as renumbered and amended by Chapter 241, Laws of Utah 1992

**9-4-614**, as renumbered and amended by Chapter 241, Laws of Utah 1992

**9-4-801**, as last amended by Chapters 240 and 243, Laws of Utah 1996

**9-4-802**, as last amended by Chapter 286, Laws of Utah 2000

**9-7-205**, as renumbered and amended by Chapter 241, Laws of Utah 1992

**10-9-104**, as last amended by Chapter 55, Laws of Utah 1996

**11-17-1.5**, as last amended by Chapter 1, Laws of Utah 1988, Third Special Session

**11-17-2**, as last amended by Chapter 170, Laws of Utah 1996

**17-27-104**, as last amended by Chapter 55, Laws of Utah 1996

**17-28-2.6**, as enacted by Chapter 115, Laws of Utah 1992

**17-33-3**, as enacted by Chapter 81, Laws of Utah 1981

**17-33-5**, as last amended by Chapter 182, Laws of Utah 1999

**20A-3-105**, as last amended by Chapter 22, Laws of Utah 1999



- 26           **26-10-1**, as enacted by Chapter 126, Laws of Utah 1981
- 27           **26-29-1**, as enacted by Chapter 126, Laws of Utah 1981
- 28           **26-29-2**, as enacted by Chapter 126, Laws of Utah 1981
- 29           **26-29-3**, as enacted by Chapter 126, Laws of Utah 1981
- 30           **26-30-1**, as last amended by Chapter 103, Laws of Utah 1988
- 31           **26-30-2**, as last amended by Chapter 38, Laws of Utah 1989
- 32           **26-30-3**, as enacted by Chapter 126, Laws of Utah 1981
- 33           **31A-22-611**, as enacted by Chapter 242, Laws of Utah 1985
- 34           **34-38-14**, as last amended by Chapter 375, Laws of Utah 1997
- 35           **34-40-104**, as last amended by Chapter 375, Laws of Utah 1997
- 36           **34A-5-102**, as last amended by Chapter 161, Laws of Utah 1999
- 37           **41-1a-408**, as last amended by Chapters 27 and 40, Laws of Utah 2000
- 38           **49-1-103**, as last amended by Chapter 288, Laws of Utah 1995
- 39           **49-5-103**, as last amended by Chapter 31, Laws of Utah 1997
- 40           **53A-1-402**, as enacted by Chapter 2, Laws of Utah 1988
- 41           **53A-9-103**, as enacted by Chapter 2, Laws of Utah 1988
- 42           **53A-11-203**, as enacted by Chapter 2, Laws of Utah 1988
- 43           **53A-17a-106**, as renumbered and amended by Chapter 72, Laws of Utah 1991
- 44           **53A-17a-127**, as last amended by Chapter 332, Laws of Utah 1999
- 45           **53A-20-103**, as enacted by Chapter 2, Laws of Utah 1988
- 46           **53A-25-206**, as enacted by Chapter 2, Laws of Utah 1988
- 47           **55-5-5**, as enacted by Chapter 174, Laws of Utah 1971
- 48           **59-10-108**, as last amended by Chapter 183, Laws of Utah 1990
- 49           **62A-1-111**, as last amended by Chapter 106, Laws of Utah 1999
- 50           **62A-4a-105**, as last amended by Chapters 274 and 370, Laws of Utah 1998
- 51           **63B-5-201**, as enacted by Chapter 335, Laws of Utah 1996
- 52           **75-5-316**, as last amended by Chapter 161, Laws of Utah 1997
- 53           **78-11-23**, as enacted by Chapter 167, Laws of Utah 1983

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

55           Section 1. Section **9-4-602** is amended to read:

56           **9-4-602. Definitions.**

57 As used in this part:

58 (1) "Area of operation" means:

59 (a) in the case of an authority of a city, the city, except that the area of operation of an  
60 authority of any city does not include any area [~~which~~] that lies within the territorial boundaries  
61 of some other city; or

62 (b) in the case of an authority of a county, all of the county for which it is created except,  
63 that a county authority may not undertake any project within the boundaries of any city unless a  
64 resolution has been adopted by the governing body of the city (and by any authority which shall  
65 have been theretofore established and authorized to exercise its powers in the city) declaring that  
66 there is need for the county authority to exercise its powers within that city.

67 (2) "Blighted area" means any area where dwellings predominate [~~which~~] that, by reason  
68 of dilapidation, overcrowding, faulty arrangement or design, lack of ventilation, light, or sanitary  
69 facilities or any combination of these factors, are detrimental to safety, health, and morals.

70 (3) "Bonds" means any bonds, notes, interim certificates, debentures, or other obligations  
71 issued by an authority pursuant to this part.

72 (4) "City" means any city or town in the state.

73 (5) "Clerk" means the city clerk or the county clerk, or the officer charged with the duties  
74 customarily imposed on [~~such~~] the clerk.

75 (6) "County" means any county in the state.

76 (7) "Elderly" means a person who meets the age, disability, or other conditions established  
77 by regulation of the authority.

78 (8) "Federal government" includes the United States of America, the Department of  
79 Housing and Urban Development, or any other agency or instrumentality, corporate or otherwise,  
80 of the United States.

81 (9) "Governing body" means, in the case of a city, the council or other body of the city in  
82 which is vested legislative authority customarily imposed on the city council, and in the case of  
83 a county, the board of county commissioners.

84 [~~(H)~~] (10) "Housing authority" or "authority" means any public body corporate and politic  
85 created by this part.

86 [~~(H2)~~] (11) (a) "Housing project" or "project" means any work or undertaking, on  
87 contiguous or noncontiguous sites to:

88 (i) demolish, clear, or remove buildings from any blighted area;

89 (ii) provide or assist in providing decent, safe, and sanitary urban or rural dwellings,  
90 apartments, or other living accommodations for persons of medium and low income by any  
91 suitable methods, including but not limited to rental, sale of individual units in single or  
92 multifamily structures under conventional condominium, cooperative sales contract,  
93 lease-purchase agreement, loans, or subsidizing of rentals or charges; or

94 (iii) accomplish a combination of the foregoing.

95 (b) "Housing project" includes:

96 (i) buildings, land, equipment, facilities, and other real or personal property for necessary,  
97 convenient, or desirable appurtenances;

98 (ii) streets, sewers, water service, utilities, parks, site preparation and landscaping;

99 (iii) facilities for administrative, community, health, recreational, welfare, or other  
100 purposes;

101 (iv) the planning of the buildings and other improvements;

102 (v) the acquisition of property or any interest therein; the demolition of existing structures;

103 (vi) the construction, reconstruction, rehabilitation, alteration, or repair of the  
104 improvements and all other work in connection with them; and

105 (vii) all other real and personal property and all tangible or intangible assets held or used  
106 in connection with the housing project.

107 [~~13~~] (12) "Major disaster" means any flood, drought, fire, hurricane, earthquake, storm,  
108 or other catastrophe which in the determination of the governing body is of sufficient severity and  
109 magnitude to warrant the use of available resources of the federal, state, and local governments to  
110 alleviate the damage, hardship, or suffering caused.

111 [~~14~~] (13) "Mayor" means the mayor of the city or the officer charged with the duties  
112 customarily imposed on the mayor or executive head of a city.

113 [~~15~~] (14) "Obligee of an authority" or "obligee" includes any bondholder, agent or trustee  
114 for any bondholder, any lessor demising to the authority used in connection with a project, any  
115 assignee or assignees of the lessor's interest in whole or in part, and the federal government when  
116 it is a party to any contract with the authority.

117 [~~16~~] (15) "Persons of medium and low income" mean persons or families who, as  
118 determined by the authority undertaking a project, cannot afford to pay the amounts at which

119 private enterprise, unaided by appropriate assistance, is providing a substantial supply of decent,  
120 safe and sanitary housing.

121 ~~[(10) "Handicapped"]~~ (16) "Person with a disability" means a person ~~[whose functioning~~  
122 ~~is substantially impaired, as determined in accordance with regulations established by the~~  
123 ~~authority]~~ with any disability as defined by and covered under the Americans with Disabilities Act  
124 of 1990, 42 U.S.C. 12102.

125 (17) "Public body" means any city, county or municipal corporation, commission, district,  
126 authority, agency, subdivision, or other body of any of the foregoing.

127 (18) "Real property" includes all lands, improvements, and fixtures on them, property of  
128 any nature appurtenant to them or used in connection with them, and every estate, interest, and  
129 right, legal or equitable, including terms for years.

130 Section 2. Section **9-4-614** is amended to read:

131 **9-4-614. Preference for elderly and persons with a disability.**

132 (1) For the purpose of increasing the supply of low-rent housing and related facilities for  
133 medium and low income elderly and ~~[handicapped persons of]~~ medium and low income persons  
134 with a disability, an authority may exercise any of its powers under this part in projects involving  
135 dwelling accommodations designed specifically for these persons. ~~[In respect to]~~

136 (2) For dwelling units in any projects suitable to the needs of the elderly or ~~[handicapped]~~  
137 persons with a disability, special preference may be extended in admission to those dwelling units  
138 to these persons of medium and low income.

139 Section 3. Section **9-4-801** is amended to read:

140 **9-4-801. Creation.**

141 (1) There is created the Homeless Coordinating Committee.

142 (2) (a) The committee shall consist of the state planning coordinator, the state  
143 superintendent of public instruction, and the executive directors of the Department of Human  
144 Services, the Department of Community and Economic Development, the Department of  
145 Workforce Services, and the Department of Health, or their designees.

146 (b) The governor shall appoint the chair from among these members.

147 (3) The governor may also appoint representatives of local governments, local housing  
148 authorities, local law enforcement agencies, and of federal and private agencies and organizations  
149 concerned with the homeless, mentally ill, elderly, single-parent families, substance abusers, and

150 [~~the handicapped~~] persons with a disability to be members of the committee.

151 (4) (a) Except as required by Subsection (4)(b), as terms of current committee members  
152 expire, the governor shall appoint each new member or reappointed member to a four-year term.

153 (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time  
154 of appointment or reappointment, adjust the length of terms to ensure that the terms of committee  
155 members are staggered so that approximately half of the committee is appointed every two years.

156 (c) A person appointed under this Subsection (4) may not be appointed to serve more than  
157 three consecutive terms.

158 (5) When a vacancy occurs in the membership for any reason, the replacement shall be  
159 appointed for the unexpired term.

160 (6) (a) (i) Members who are not government employees shall receive no compensation or  
161 benefits for their services, but may receive per diem and expenses incurred in the performance of  
162 the member's official duties at the rates established by the Division of Finance under Sections  
163 63A-3-106 and 63A-3-107.

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

165 (b) (i) State government officer and employee members who do not receive salary, per  
166 diem, or expenses from their agency for their service may receive per diem and expenses incurred  
167 in the performance of their official duties from the committee at the rates established by the  
168 Division of Finance under Sections 63A-3-106 and 63A-3-107.

169 (ii) State government officer and employee members may decline to receive per diem and  
170 expenses for their service.

171 (c) (i) Local government members who do not receive salary, per diem, or expenses from  
172 the entity that they represent for their service may receive per diem and expenses incurred in the  
173 performance of their official duties at the rates established by the Division of Finance under  
174 Sections 63A-3-106 and 63A-3-107.

175 (ii) Local government members may decline to receive per diem and expenses for their  
176 service.

177 Section 4. Section **9-4-802** is amended to read:

178 **9-4-802. Purposes of Homeless Coordinating Committee -- Uses of Homeless Trust**  
179 **Account.**

180 (1) (a) The Homeless Coordinating Committee shall work to ensure that services provided

181 to the homeless by state agencies, local governments, and private organizations are provided in a  
182 cost-effective manner.

183 (b) Programs funded by the committee shall emphasize emergency housing and  
184 self-sufficiency, including placement in meaningful employment or occupational training activities  
185 and, where needed, special services to meet the unique needs of the homeless who have families  
186 with children, or who are mentally ill, disabled, or suffer from other serious challenges to  
187 employment and self-sufficiency.

188 (c) The committee may also fund treatment programs to ameliorate the effects of substance  
189 abuse or a ~~[handicap]~~ disability.

190 (2) The committee designated in Subsection 9-4-801(2) ~~[is responsible for awarding]~~ shall:

191 (a) award contracts funded by the Homeless Trust Account~~[- The committee shall award~~  
192 ~~contracts]~~ with the advice and input of those designated in Subsection 9-4-801(3)~~[- and shall];~~

193 (b) consider need, diversity of geographic location, coordination with or enhancement of  
194 existing services, and the extensive use of volunteers~~[- Priority]; and~~

195 (c) give priority for funding ~~[shall be given]~~ to programs that serve the homeless who are  
196 mentally ill and who are in families with children.

197 (3) (a) In any fiscal year, no more than 80% of the funds in the Homeless Trust Account  
198 may be allocated to organizations that provide services only in Salt Lake, Davis, Weber, and Utah  
199 Counties.

200 (b) The committee may:

201 (i) expend up to 3% of its annual appropriation for administrative costs associated with  
202 the allocation of funds from the Homeless Trust Account, and up to 2% of its annual appropriation  
203 for marketing the Homeless Trust Account and soliciting donations to the Homeless Trust  
204 Account~~[- The committee may]; and~~

205 (ii) pay for the initial costs of the State Tax Commission in implementing Section  
206 59-10-530.5 ~~[out of]~~ from the Homeless Trust Account.

207 (4) (a) The committee may not expend, except as provided in Subsection (4)(b), an amount  
208 equal to the greater of \$50,000 or 20% of the amount donated to the Homeless Trust Account  
209 during fiscal year 1988-89.

210 (b) ~~[The]~~ If there are decreases in contributions to the fund, the committee may expend  
211 funds held in reserve to provide program stability ~~[in the event of decreases in contributions to the~~

212 fund], but the committee shall reimburse the amounts of those expenditures to the reserve fund [~~the~~  
213 ~~amount of any such expenditure~~].

214 (5) The committee shall make an annual report to the Economic Development and Human  
215 Resources Appropriations Subcommittee regarding the programs and services funded by  
216 contributions to the Homeless Trust Account.

217 (6) The moneys in the Homeless Trust Account shall be invested by the state treasurer  
218 according to the procedures and requirements of Title 51, Chapter 7, State Money Management  
219 Act, except that all interest or other earnings derived from the fund moneys shall be deposited in  
220 the fund.

221 Section 5. Section **9-7-205** is amended to read:

222 **9-7-205. Duties of board and director.**

223 (1) The board shall:

224 (a) promote, develop, and organize a state library and make provisions for its housing;

225 (b) promote and develop library services throughout the state in cooperation with any and  
226 all other state or municipal libraries, schools, or other agencies wherever practical;

227 (c) promote the establishment of district, regional, or multicounty libraries as conditions  
228 within particular areas of the state may require;

229 (d) supervise the books and materials of the state library and require careful and complete  
230 records of the condition and affairs of the state library to be kept;

231 (e) establish policies for the administration of the division and for the control, distribution,  
232 and lending of books and materials to those libraries, institutions, groups, or individuals entitled  
233 to them under this chapter;

234 (f) serve as the agency of the state for the administration of any state or federal funds  
235 [~~which~~] that may be appropriated to further library development within the state;

236 (g) aid and provide general advisory assistance in the development of statewide school  
237 library service and encourage contractual and cooperative relations between school and public  
238 libraries;

239 (h) give assistance, advice, and counsel to all tax-supported libraries of any type within  
240 the state and to all communities or persons proposing to establish them and conduct courses and  
241 institutes on the approved methods of operation, selection of books, or other activities necessary  
242 to the proper administration of a library;



243 (i) furnish or contract for the furnishing of library or information service to state officials,  
244 state departments, or any groups that in the opinion of the director warrant the furnishing of those  
245 services, particularly through the facilities of traveling libraries to those parts of the state otherwise  
246 inadequately supplied by libraries;

247 (j) where sufficient need exists and if the director considers it advisable, establish and  
248 maintain special departments in the state library to provide services for the blind [~~and physically~~  
249 ~~handicapped~~], visually impaired, persons with disabilities, and professional, occupational, and  
250 other groups;

251 (k) administer a depository library program by collecting state publications, and providing  
252 a bibliographic information system;

253 (l) require that information and statistics necessary to the work of the state library be  
254 collected, and that findings and reports be published;

255 (m) make any report concerning the activities of the state library to the governor as he may  
256 require; and

257 (n) develop standards for public libraries.

258 (2) The director shall, under the policy direction of the board, carry out the responsibilities  
259 under Subsection (1).

260 Section 6. Section **10-9-104** is amended to read:

261 **10-9-104. Stricter requirements.**

262 (1) Except as provided in Subsection (2), municipalities may enact ordinances imposing  
263 stricter requirements or higher standards than are required by this chapter.

264 (2) A municipality may not impose stricter requirements or higher standards than are  
265 required by:

266 (a) Section 10-9-106;

267 (b) Section 10-9-106.5;

268 (c) Part 5, Residential Facilities for Elderly [~~Persons~~]; and

269 (d) Part 6, Residential Facilities for [~~Handicapped~~] Persons with a Disability.

270 Section 7. Section **11-17-1.5** is amended to read:

271 **11-17-1.5. Purpose of chapter.**

272 (1) The purposes of this chapter are to stimulate the economic growth of the state [~~of~~  
273 ~~Utah~~], to promote employment and achieve greater industrial development in the state [~~of Utah~~],

274 to maintain or enlarge domestic or foreign markets for Utah industrial products, to authorize  
275 municipalities and counties in the state to facilitate capital formation, finance, acquire, own, lease,  
276 or sell projects for the purpose of reducing, abating, or preventing pollution and to protect and  
277 promote the health, welfare, and safety of the citizens of the state and to improve local health and  
278 the general welfare by inducing corporations, persons, or entities engaged in health care services,  
279 including hospitals, nursing homes, extended care facilities, facilities for the care of [~~physically~~  
280 ~~and mentally handicapped~~] persons with a physical or mental disability, and administrative and  
281 support facilities, to locate, relocate, modernize, or expand in this state and to assist in the  
282 formation of investment capital with respect thereto. The Legislature hereby finds and declares  
283 that the acquisition or financing, or both, of projects under the Utah Industrial Facilities and  
284 Development Act and the issuance of bonds under it constitutes a proper public purpose.

285 (2) It is declared that the policy of the state [~~of Utah~~] is to encourage the development of  
286 free enterprise and entrepreneurship for the purpose of the expansion of employment opportunities  
287 and economic development. It is found and declared that there exists in the state [~~of Utah~~] an  
288 inadequate amount of locally managed, pooled venture capital in the private sector available to  
289 invest in early stage businesses having high growth potential and [~~which~~] that can provide jobs for  
290 Utah citizens. It is found that [~~such~~] venture capital is required for healthy economic development  
291 of sectors of the economy having high growth and employment potential. It is further found that  
292 the public economic development purposes of the state and its counties and municipalities can be  
293 fostered by the sale of industrial revenue bonds for the purpose of providing funding for locally  
294 managed, pooled new venture and economic development funds in accordance with the provisions  
295 of this act. It is found and declared that in order to assure adequate investment of private capital  
296 for [~~such~~] these uses, cooperation between private enterprise and state and local government is  
297 necessary and in the public interest and that the facilitation of [~~such~~] capital accumulation is the  
298 appropriate activity of the counties and municipalities of this state and also of the Utah Division  
299 of Business and Economic Development, a division of the Utah Department of Community and  
300 Economic Development.

301 It is found that venture capital funds historically, because of the more intensive nature of  
302 their relationship with companies in which they invest, tend to concentrate their investments within  
303 a relatively close geographical area to their headquarters location.

304 It is found and declared that investors in economic development or new venture investment

305 funds require for the overall security of their investments reasonable diversification of investment  
306 portfolios and that, in the course of ~~[such]~~ this diversification, investments are often syndicated  
307 or jointly made among several financial institutions or funds. It is expressly found and declared  
308 that an economic development or new venture investment fund must from time to time for its  
309 optimal profitability and efficiency (which are important for the security and profit of bond  
310 purchasers providing funds therefor) cooperate with others who may be located outside the state  
311 of Utah or the county or municipality where ~~[such]~~ the fund is headquartered in the making of  
312 investments and that ~~[such]~~ the fund must be free in the interests of reciprocal relationships with  
313 other financial institutions and diversification of risks to invest from time to time in enterprises  
314 ~~[which]~~ that are located outside ~~[the state]~~ of Utah or ~~[such]~~ the counties or municipalities. It is  
315 specifically found that such activity by a locally managed fund, funded in whole or in part with the  
316 proceeds of bonds sold ~~[pursuant to]~~ under this chapter, is within the public purposes of the state  
317 ~~[of Utah]~~ and any county or municipality offering ~~[such]~~ the bonds, provided that ~~[such]~~ the fund  
318 locates within the state of Utah or ~~[such]~~ the county or municipality its headquarters where its  
319 actual investment decisions and management functions occur and limits the aggregate amount of  
320 its investments in companies located outside ~~[the state]~~ of Utah to an amount ~~[which]~~ that in the  
321 aggregate does not exceed the aggregate amount of investments made by institutions and funds  
322 located outside ~~[the state]~~ of Utah in Utah companies, ~~[which said]~~ that the locally managed fund  
323 has sponsored or in which it has invested and ~~[which]~~ that it has brought to the attention of  
324 investors outside ~~[the state]~~ of Utah.

325 Section 8. Section **11-17-2** is amended to read:

326 **11-17-2. Definitions.**

327 As used in this chapter:

328 (1) "Bonds" means bonds, notes, or other evidences of indebtedness.

329 (2) "Finance" or "financing" includes the issuing of bonds by a municipality, county, or  
330 state university for the purpose of using a portion, or all or substantially all of the proceeds to pay  
331 for or to reimburse the user or its designee for the costs of the acquisition of facilities of a project,  
332 or to create funds for the project itself where appropriate, whether these costs are incurred by the  
333 municipality, the county, the state university, the user, or a designee of the user. If title to or in  
334 these facilities at all times remains in the user, the bonds of the municipality or county shall be  
335 secured by a pledge of one or more notes, debentures, bonds, other secured or unsecured debt

336 obligations of the user, or such sinking fund or other arrangement as in the judgment of the  
337 governing body is appropriate for the purpose of assuring repayment of the bond obligations to  
338 investors in accordance with their terms.

339 (3) "Governing body" means the board or body [~~in which~~] that the general legislative  
340 powers of the municipality or county are vested. In the case of state universities to which this  
341 chapter applies, "governing body" means the board or body having the control and supervision of  
342 the University of Utah and Utah State University and, with reference to a nonprofit corporation or  
343 foundation created by and operating under the auspices of a state university, the board of directors  
344 or board of trustees of that corporation or foundation.

345 (4) "Industrial park" means land, including all necessary rights, appurtenances, easements,  
346 and franchises relating to it, acquired and developed by any municipality, county, or state  
347 university for the establishment and location of a series of sites for plants and other buildings for  
348 industrial, distribution, and wholesale use. There may be included as part of the development of  
349 the land for any industrial park under this chapter the acquisition and provision of water, sewerage,  
350 drainage, street, road, sidewalk, curb, gutter, street lighting, electrical distribution, railroad, or  
351 docking facilities, or any combination of them, but only to the extent that these facilities are  
352 incidental to the use of the land as an industrial park.

353 (5) "Mortgage" means a mortgage, trust deed, or other security device.

354 (6) "Municipality" means any incorporated city or town in the state, including cities or  
355 towns operating under home rule charters.

356 (7) "Pollution" means any form of environmental pollution including, but not limited to,  
357 water pollution, air pollution, pollution caused by solid waste disposal, thermal pollution, radiation  
358 contamination, or noise pollution.

359 (8) "Project" means:

360 (a) any industrial park, land, interest in land, building, structure, facility, system, fixture,  
361 improvement, appurtenance, machinery, equipment, or any combination of them, whether or not  
362 in existence or under construction:

363 (i) [~~which~~] that is suitable for industrial, manufacturing, warehousing, research, business,  
364 and professional office building facilities, commercial, shopping services, food, lodging, low  
365 income rental housing, recreational, or any other business purposes;

366 (ii) [~~which~~] that is suitable to provide services to the general public;

367 (iii) ~~[which]~~ that is suitable for use by any corporation, person, or entity engaged in health  
368 care services, including hospitals, nursing homes, extended care facilities, facilities for the care of  
369 ~~[physically and mentally handicapped]~~ persons with a physical or mental disability, and  
370 administrative and support facilities; or

371 (iv) ~~[which]~~ that is suitable for use by a state university for the purpose of aiding in the  
372 accomplishment of its authorized academic, scientific, engineering, technical, and economic  
373 development functions, but "project" does not include any property, real, personal, or mixed, for  
374 the purpose of the construction, reconstruction, improvement, or maintenance of a public utility  
375 as defined in Section 54-2-1, ~~[except aircraft carriers as defined in Title 54,]~~ Chapter 2, and except  
376 as provided in Subsection (8)(b);

377 (b) any land, interest in land, building, structure, facility, system, fixture, improvement,  
378 appurtenance, machinery, equipment, or any combination of them, used by any individual,  
379 partnership, firm, company, corporation, public utility, association, trust, estate, political  
380 subdivision, state agency, or any other legal entity, or its legal representative, agent, or assigns, for  
381 the reduction, abatement, or prevention of pollution, including, but not limited to, the removal or  
382 treatment of any substance in process material, if that material would cause pollution if used  
383 without the removal or treatment;

384 (c) facilities, machinery, or equipment, the manufacturing and financing of which will  
385 maintain or enlarge domestic or foreign markets for Utah industrial products; or

386 (d) any economic development or new venture investment fund to be raised other than  
387 from:

388 (i) municipal or county general fund moneys;

389 (ii) moneys raised ~~[pursuant to]~~ under the taxing power of any county or municipality; or

390 (iii) moneys raised against the general credit of any county or municipality.

391 (9) "State university" means the University of Utah and Utah State University and includes  
392 any nonprofit corporation or foundation created by and operating under their authority.

393 (10) "User" means the person, whether natural or corporate, who will occupy, operate,  
394 maintain, and employ the facilities of, or manage and administer a project after the financing,  
395 acquisition, or construction of it, whether as owner, manager, purchaser, lessee, or otherwise.

396 Section 9. Section **17-27-104** is amended to read:

397 **17-27-104. Stricter requirements.**

398 (1) Except as provided in Subsection (2), counties may enact ordinances imposing stricter  
399 requirements or higher standards than are required by this chapter.

400 (2) A county may not impose stricter requirements or higher standards than are required  
401 by:

402 (a) Section 17-27-105;

403 (b) Section 17-27-105.5;

404 (c) Part 5, Residential Facilities for Elderly [~~Persons~~]; and

405 (d) Part 6, Residential Facilities for [~~Handicapped~~] Persons with a Disability.

406 Section 10. Section **17-28-2.6** is amended to read:

407 **17-28-2.6. Merit principles.**

408 The County Fire Civil Service System shall be established and administered in a manner  
409 that will provide for the effective implementation of the following merit principles:

410 (1) recruiting, selecting, and advancing employees on the basis of their relative ability,  
411 knowledge, and skills, including open consideration of qualified applicants for initial appointment;

412 (2) provision of equitable and adequate job classification and compensation systems,  
413 including pay and benefits programs;

414 (3) training of employees as needed to assure high-quality performance;

415 (4) retention of employees on the basis of the adequacy of their performance and  
416 separation of employees whose inadequate performance cannot be corrected;

417 (5) fair treatment of applicants and employees in all aspects of personal administration  
418 without regard to race, color, religion, sex, national origin, political affiliation, age, or [~~handicap~~]  
419 disability, and with proper regard for their privacy and constitutional rights as citizens;

420 (6) provision of information to employees regarding their political rights and prohibited  
421 practices under the Hatch Act; and

422 (7) provision of a formal procedure for processing the appeals and grievances of  
423 employees without discrimination, coercion, restraint, or reprisal.

424 Section 11. Section **17-33-3** is amended to read:

425 **17-33-3. Merit principles.**

426 It is the policy of this state that each county may establish a personnel system administered  
427 in a manner that will provide for the effective implementation of the following merit principles:

428 (1) recruiting, selecting, and advancing employees on the basis of their relative ability,

- 429 knowledge, and skills, including open consideration of qualified applicants for initial appointment;
- 430 (2) provision of equitable and adequate compensation;
- 431 (3) training of employees as needed to assure high-quality performance;
- 432 (4) retention of employees on the basis of the adequacy of their performance, and
- 433 separation of employees whose inadequate performance cannot be corrected;
- 434 (5) fair treatment of applicants and employees in all aspects of personnel administration
- 435 without regard to race, color, religion, sex, national origin, political affiliation, age, or [~~handicap~~
- 436 disability, and with proper regard for their privacy and constitutional rights as citizens;
- 437 (6) provision of information to employees regarding their political rights and prohibited
- 438 practices under the Hatch Act; and
- 439 (7) provision of a formal procedure for processing the appeals and grievances of
- 440 employees without discrimination, coercion, restraint, or reprisal.

441 Section 12. Section **17-33-5** is amended to read:

442 **17-33-5. Office of personnel management -- Director -- Appointment and**

443 **responsibilities -- Personnel rules.**

444 (1) (a) Each county legislative body shall:

445 (i) create an office of personnel management, administered by a director of personnel

446 management; and

447 (ii) ensure that the director is a person with proven experience in personnel management.

448 (b) (i) Beginning July 1, 1993, the county legislative body shall appoint a director of

449 personnel management to serve a four-year term.

450 (ii) At the expiration of any four-year term, the county legislative body may reappoint that

451 director to another four-year term or may appoint a new director.

452 (iii) If the position of director of personnel management becomes vacant for any reason

453 before the four-year term expires, the county legislative body shall appoint a person to complete

454 the unexpired term by following the procedures and requirements of this section.

455 (c) The career service council shall:

456 (i) advertise and recruit for the director position in the same manner as for merit positions;

457 (ii) select three names from a register; and

458 (iii) submit those names as recommendations to the county legislative body.

459 (d) The county legislative body shall select a person to serve as director of the office of

460 personnel management from the names submitted to it by the career service council.

461 (2) The director of personnel management shall:

462 (a) encourage and exercise leadership in the development of expertise in personnel  
463 administration within the several departments, offices, and agencies in the county service and make  
464 available the facilities of the office of personnel management to this end;

465 (b) advise the county legislative and executive bodies on the use of human resources;

466 (c) develop and implement programs for the improvement of employee effectiveness, such  
467 as training, safety, health, counseling, and welfare;

468 (d) investigate periodically the operation and effect of this law and of the policies made  
469 under it and report findings and recommendations to the county legislative body;

470 (e) establish and maintain records of all employees in the county service, setting forth as  
471 to each employee class, title, pay or status, and other relevant data;

472 (f) make an annual report to the county legislative body regarding the work of the  
473 department; and

474 (g) apply and carry out this law and the policies under it and perform any other lawful acts  
475 that are necessary to carry out the provisions of this law.

476 (3) (a) (i) The director shall issue personnel rules for the county.

477 (ii) The county legislative body may approve, amend, or reject those rules before they are  
478 implemented.

479 (b) The rules shall provide for:

480 (i) recruiting efforts to be planned and carried out in a manner that assures open  
481 competition, with special emphasis to be placed on recruiting efforts to attract minorities, women,  
482 [handicapped] persons with a disability as defined by and covered under the Americans with  
483 Disabilities Act of 1990, 42 U.S.C. 12102, or other groups that are substantially underrepresented  
484 in the county work force to help assure they will be among the candidates from whom  
485 appointments are made;

486 (ii) the establishment of job-related minimum requirements wherever practical, ~~[which]~~  
487 that all successful candidates shall be required to meet in order to be eligible for consideration for  
488 appointment or promotion;

489 (iii) selection procedures that include consideration of the relative merit of each applicant  
490 for employment, a job-related method of determining the eligibility or ineligibility of each



491 applicant, and a valid, reliable, and objective system of ranking eligibles according to their  
492 qualifications and merit;

493 (iv) certification procedures that insure equitable consideration of an appropriate number  
494 of the most qualified eligibles based on the ranking system;

495 (v) appointments to positions in the career service by selection from the most qualified  
496 eligibles certified on eligible lists established in accordance with Subsections (3)(b)(iii) and (iv);

497 (vi) noncompetitive appointments in the occasional instance where there is evidence that  
498 open or limited competition is not practical, such as for unskilled positions [~~for which there are~~  
499 that have no minimum job requirements;

500 (vii) limitation of competitions at the discretion of the director for appropriate positions  
501 to facilitate employment of qualified applicants with a substantial physical or mental impairment,  
502 or other groups protected by Title VII of the Civil Rights Act;

503 (viii) permanent appointment for entry to the career service [~~which~~ that shall be  
504 contingent upon satisfactory performance by the employee during a period of six months, with the  
505 probationary period extendable for a period not to exceed six months for good cause, but with the  
506 condition that the probationary employee may appeal directly to the council any undue  
507 prolongation of the period designed to thwart merit principles;

508 (ix) temporary, provisional, or other noncareer service appointments, which may not be  
509 used as a way of defeating the purpose of the career service and may not exceed 90 days, with the  
510 period extendable for a period not to exceed an additional 90 days for good cause;

511 (x) lists of eligibles normally to be used, if available, for filling temporary positions, and  
512 short term emergency appointments to be made without regard to the other provisions of law to  
513 provide for maintenance of essential services in an emergency situation where normal procedures  
514 are not practical, these emergency appointments not to exceed 90 days, with that period extendable  
515 for a period not to exceed an additional 90 days for good cause;

516 (xi) promotion and career ladder advancement of employees to higher level positions and  
517 assurance that all persons promoted are qualified for the position;

518 (xii) recognition of the equivalency of other merit processes by waiving, at the discretion  
519 of the director, the open competitive examination for placement in the career service positions who  
520 were originally selected through a competitive examination process in another governmental entity,  
521 the individual in those cases, to serve a probationary period;

522 (xiii) preparation, maintenance, and revision of a position classification plan for all  
523 positions in the career service, based upon similarity of duties performed and responsibilities  
524 assumed, so that the same qualifications may reasonably be required for, and the same schedule  
525 of pay may be equitably applied to, all positions in the same class, the compensation plan, in order  
526 to maintain a high quality public work force, to take into account the responsibility and difficulty  
527 of the work, the comparative pay and benefits needed to compete in the labor market and to stay  
528 in proper alignment with other similar governmental units, and other factors;

529 (xiv) keeping records of performance on all employees in the career service and requiring  
530 consideration of performance records in determining salary increases, any benefits for meritorious  
531 service, promotions, the order of layoffs and reinstatements, demotions, discharges, and transfers;

532 (xv) establishment of a plan governing layoffs resulting from lack of funds or work,  
533 abolition of positions, or material changes in duties or organization, and governing reemployment  
534 of persons so laid off, taking into account with regard to layoffs and reemployment the relative  
535 ability, seniority, and merit of each employee;

536 (xvi) establishment of a plan for resolving employee grievances and complaints with final  
537 and binding decisions;

538 (xvii) establishment of disciplinary measures such as suspension, demotion in rank or  
539 grade, or discharge, [~~such~~] measures to provide for presentation of charges, hearing rights, and  
540 appeals for all permanent employees in the career service to the career service council;

541 (xviii) establishment of a procedure for employee development and improvement of poor  
542 performance;

543 (xix) establishment of hours of work, holidays, and attendance requirements in various  
544 classes of positions in the career service;

545 (xx) establishment and publicizing of fringe benefits such as insurance, retirement, and  
546 leave programs; and

547 (xxi) any other requirements not inconsistent with this law that are proper for its  
548 enforcement.

549 Section 13. Section **20A-3-105** is amended to read:

550 **20A-3-105. Marking and depositing ballots.**

551 (1) (a) If paper ballots are used, the voter, upon receipt of the ballot, shall go to a voting  
552 booth and prepare the voter's ballot by marking the appropriate position with a mark opposite the

553 name of each candidate of the voter's choice for each office to be filled.

554 (b) A mark is not required opposite the name of a write-in candidate.

555 (c) If a ballot proposition is submitted to a vote of the people, the voter shall mark in the  
556 appropriate square with a mark opposite the answer the voter intends to make.

557 (d) The voter shall fold the ballot before leaving the booth so its contents are concealed  
558 and the stub can be removed.

559 (2) (a) (i) If ballot cards are used, the voter shall insert the ballot card into the voting  
560 device and mark the ballot card according to the instructions provided on the device.

561 (ii) If the voter is issued a ballot card with a long stub without a secrecy envelope, the voter  
562 shall record any write-in votes on the long stub.

563 (iii) If the voter is issued a ballot card with a secrecy envelope, the voter shall record any  
564 write-in votes on the secrecy envelope.

565 (b) After the voter has marked the ballot card, the voter shall either:

566 (i) place the ballot card inside the secrecy envelope, if one is provided; or

567 (ii) fold the long stub over the face of the ballot card to maintain the secrecy of the vote  
568 if the voter is issued a ballot card with a long stub without a secrecy envelope.

569 (3) (a) After preparation of the ballot, the voter shall:

570 (i) leave the voting booth; and

571 (ii) announce his name to the election judge in charge of the ballot box.

572 (b) The election judge in charge of the ballot box shall:

573 (i) clearly and audibly announce the name of the voter and the number on the stub of the  
574 voter's ballot;

575 (ii) if the stub number on the ballot corresponds with the number previously recorded in  
576 the official register, and bears the initials of the election judge, remove the stub from the ballot;  
577 and

578 (iii) return the ballot to the voter.

579 (c) The voter shall, in full view of the election judges, cast his vote by depositing the ballot  
580 in the ballot box.

581 (d) (i) The election judge may not accept a ballot from which the stub has been detached.

582 (ii) The election judge shall treat a ballot from which the stub has been detached as a  
583 spoiled ballot and shall provide the voter with a new ballot and dispose of the spoiled ballot as

584 provided in Section 20A-3-107.

585 (4) A voter voting a paper ballot in a regular primary election shall, after marking the  
586 ballot:

587 (a) (i) detach the part of the paper ballot containing the names of the candidates of the  
588 party he has voted from the remainder of the paper ballot;

589 (ii) fold that portion of the paper ballot so that its face is concealed; and

590 (iii) deposit it in the ballot box; and

591 (b) (i) fold the remainder of the paper ballot, containing the names of the candidates of the  
592 parties that the elector did not vote; and

593 (ii) deposit it in a separate ballot box that is marked and designated as a blank ballot box.

594 (5) (a) Each voter shall mark and deposit the ballot without delay and leave the voting area  
595 after voting.

596 (b) A voter may not:

597 (i) occupy a voting booth occupied by another, except as provided in Section 20A-3-108;

598 (ii) remain within the voting area more than ten minutes; or

599 (iii) occupy a voting booth for more than five minutes if all booths are in use and other  
600 voters are waiting to occupy them.

601 (6) If the official register shows any voter as having voted, that voter may not reenter the  
602 voting area during that election unless that voter is an election official or watcher.

603 (7) The election judges may not allow more than four voters more than the number of  
604 voting booths into the voting area at one time unless those excess voters are:

605 (a) election officials[;];

606 (b) watchers[;]; or [are]

607 (c) assisting [~~handicapped~~] voters with a disability.

608 Section 14. Section **26-10-1** is amended to read:

609 **26-10-1. Definitions.**

610 As used in this chapter:

611 (1) "Maternal and child health services" means:

612 (a) the provision of educational, preventative, diagnostic, and treatment services, including  
613 medical care, hospitalization, and other institutional care and aftercare, appliances, and facilitating  
614 services directed toward reducing infant mortality and improving the health of mothers and

615 children provided, however, that nothing in this section shall be construed to allow any agency of  
616 the state to interfere with the rights of the parent of an unmarried minor in decisions about the  
617 providing of health information or services;

618 (b) the development, strengthening, and improvement of standards and techniques relating  
619 to ~~[such]~~ the services and care;

620 (c) the training of personnel engaged in the provision, development, strengthening, or  
621 improvement of ~~[such]~~ the services and care; and

622 (d) necessary administrative services connected with Subsections (1)(a), (b), and (c) ~~[of~~  
623 ~~this subsection]~~.

624 (2) "Crippled children's services" means:

625 (a) the early location of crippled children, provided that any program of prenatal diagnosis  
626 for the purpose of detecting the possible disease or ~~[handicaps]~~ disabilities of an unborn child will  
627 not be used for screening, but rather will be utilized only when there are medical or genetic  
628 indications ~~[which]~~ that warrant diagnosis;

629 (b) the provision for such children of preventive, diagnosis, and treatment services,  
630 including medical care, hospitalization, and other institutional care and aftercare, appliances, and  
631 facilitating services directed toward the diagnosis of the condition of such children or toward the  
632 restoration of ~~[such]~~ the children to maximum physical and mental health;

633 (c) the development, strengthening, and improvement of standards and techniques relating  
634 to such services and care;

635 (d) the training of personnel engaged in the provision, development, strengthening, or  
636 improvement of such services and care; and

637 (e) necessary administrative services connected with Subsections (2)(a), (b), and (c) ~~[of~~  
638 ~~this subsection]~~.

639 Section 15. Section **26-29-1** is amended to read:

640 **CHAPTER 29. ELIMINATION OF ARCHITECTURAL BARRIERS FOR PERSONS**  
641 **WITH A DISABILITY**

642 **26-29-1. Buildings and facilities to which chapter applies -- Standards available to**  
643 **interested parties -- Building board staff to advise, review, and approve plans when possible.**

644 (1) (a) The standards in this chapter ~~[shall]~~ apply to all buildings and facilities used by the  
645 public ~~[which]~~ that are constructed or remodeled in whole or in part by the use of state funds, or

646 the funds of any political subdivision of the state.

647 (b) All ~~[such]~~ of those buildings and facilities constructed in Utah after May 12, 1981,  
648 shall conform to the standard prescribed in this chapter except buildings ~~[or]~~, facilities, or portions  
649 ~~[thereof]~~ of them, not intended for public use, including~~[, but not limited to,]~~:

650 (i) caretaker dwellings~~[-];~~

651 (ii) service buildings~~[-];~~ and

652 (iii) heating plants~~[-, constructed in this state after the effective date of this act shall~~  
653 ~~conform to each of the standards prescribed herein].~~

654 (2) ~~[These standards shall be adhered to in those buildings and facilities under construction~~  
655 ~~on the effective date of this act, unless the authority responsible for the construction shall~~  
656 ~~determine that the construction has reached a state where compliance is impractical.]~~ This chapter  
657 ~~[shall apply]~~ applies to temporary or emergency construction as well as permanent buildings.

658 (3) ~~[These]~~ (a) The standards [shall be adhered to in] established in this chapter apply to  
659 the remodeling or alteration of any existing building or facility within the jurisdictions set forth  
660 in this chapter where [such] the remodeling or alteration will affect an area of the building or  
661 facility in which there are architectural barriers for [the physically handicapped] persons with a  
662 physical disability.

663 (b) If the remodeling involves less than 50% of the space of the building or facility, only  
664 the areas being remodeled need comply with the standards.

665 (c) If remodeling involves 50% or more of the space of the building or facility, the entire  
666 building or facility shall be brought into compliance with the standards ~~[provided in this act].~~

667 (4) (a) All individuals and organizations are encouraged to apply the standards prescribed  
668 ~~[herein]~~ in this chapter to all buildings used by the public, but ~~[which may be]~~ that are financed  
669 from other than public funds. ~~[To this end the]~~

670 (b) The State Building Board shall:

671 (i) make the standards [of] established by this chapter available to interested individuals  
672 and organizations; and [shall,]

673 (ii) upon request and to the extent possible, make available the services of the building  
674 board staff to advise, review, and approve plans and specifications [with respect to meeting] in  
675 order to comply with the standards of this chapter.

676 Section 16. Section **26-29-2** is amended to read:

677 **26-29-2. Purpose of chapter.**

678 (1) This chapter is concerned with nonambulatory disabilities, semiambulatory disabilities,  
679 sight disabilities, hearing disabilities, disabilities of incoordination, and aging.

680 (2) It is intended to make all buildings and facilities covered by this chapter accessible to,  
681 and functional for, [~~the physically handicapped~~] persons with a physical disability.

682 Section 17. Section **26-29-3** is amended to read:

683 **26-29-3. Basis for standards.**

684 The standards of this chapter [~~shall be~~] are the current edition of planning and design  
685 criteria to prevent architectural barriers for the aged and [~~the physically handicapped~~] persons with  
686 a physical disability, as promulgated by the State Building Board.

687 Section 18. Section **26-30-1** is amended to read:

688 **26-30-1. Physically disabled persons' rights and privileges.**

689 (1) The blind, visually [~~handicapped~~] impaired, hearing impaired, or otherwise physically  
690 disabled person has the same rights and privileges in the use of highways, streets, sidewalks,  
691 walkways, public buildings, public facilities, and other public areas as able-bodied persons.

692 (2) The blind, visually [~~handicapped~~] impaired, hearing impaired, or otherwise physically  
693 disabled person has equal rights to accommodations, advantages, and facilities offered by common  
694 carriers, including air carriers, railroad carriers, motor buses, motor vehicles, water carriers, and  
695 all other modes of public conveyance in this state.

696 (3) The blind, visually [~~handicapped~~] impaired, hearing impaired, or otherwise physically  
697 disabled person has equal rights to accommodations, advantages, and facilities offered by hotels,  
698 motels, lodges, and all other places of public accommodation in this state, and to places of  
699 amusement or resort to which the public is invited.

700 (4) (a) The blind, visually [~~handicapped~~] impaired, hearing impaired, or otherwise  
701 physically disabled person has equal rights and access to public and private housing  
702 accommodations offered for rent, lease, or other compensation in this state.

703 (b) This chapter does not require a person renting, leasing, or selling private housing or  
704 real property to modify [~~his~~] the housing or property in order to accommodate a blind, visually  
705 [~~disabled~~] impaired, hearing impaired, or otherwise physically disabled person, or to provide a  
706 higher degree of care for that person than for a person who is not physically disabled. [~~However,~~  
707 a]

708 (c) A person renting, leasing, or selling private housing or real property to a  
 708a h PERSON WHO IS h blind, visually  
 709 [~~disabled~~] impaired, hearing impaired, or h [otherwise physically disabled] A h person h WHO IS  
 709a OTHERWISE PHYSICALLY DISABLED h , shall comply with  
 710 the provisions of Section 26-30-2, regarding the right of those persons to be accompanied by a  
 711 guide or service h [dog] ANIMAL h specially trained for that purpose.

712 Section 19. Section **26-30-2** is amended to read:

713 **26-30-2. Right to be accompanied by guide or service animal or animal in training.**

714 (1) (a) The blind, visually [~~handicapped~~] impaired, hearing impaired, or otherwise  
 715 physically disabled person has the right to be accompanied by a guide or service [~~dog~~] animal,  
 715a h AS DEFINED BY THE AMERICANS WITH DISABILITIES ACT OF 1990, 42 U.S.C. 12102, h  
 716 specially trained for that purpose, in any of the places specified in Section 26-30-1 without  
 717 additional charge for the guide or service [~~dog~~] animal.

718 (b) This section does not prohibit an owner or lessor of private housing accommodations  
 719 from charging a reasonable deposit as security for any damage or wear and tear that might be  
 720 caused by the [~~dog. However, an~~] service animal.

721 (c) An owner or lessor of private housing accommodations may not, in any manner,  
 722 discriminate against a blind, visually [~~handicapped~~] impaired, hearing impaired, or otherwise  
 723 physically disabled person on the basis of [~~his~~] the person's possession of a guide or service [~~dog~~]  
 724 animal specially trained for that purpose.

725 (2) A person, whether or not [~~he~~] the person is blind, visually [~~handicapped~~] impaired,  
 726 hearing impaired, or otherwise physically disabled, has the right to be accompanied by [~~a pup or~~  
 727 ~~dog~~] an animal that is in training to become a guide or service [~~dog~~] animal in any of the places  
 728 specified in Section 26-30-1 without additional charge for the [~~dog~~] animal.

729 (3) A blind, visually [~~handicapped~~] impaired, hearing impaired, or otherwise physically  
 730 disabled person is liable for any loss or damage caused or inflicted to the premises by [~~his~~] the  
 731 individual's guide or service [~~dog~~] animal.

732 (4) Persons accompanied by a specially trained guide or service [~~dog~~] animal, or by [~~a pup~~  
 733 ~~or dog~~] an animal that is in training to become a guide or service [~~dog~~] animal, may first be  
 734 required to identify the [~~dog~~] animal by exhibiting the [~~dog's~~] animal's laminated identification  
 735 card or other form of identification, before these provisions apply.

736 Section 20. Section **26-30-3** is amended to read:

737 **26-30-3. Policy of state to employ blind and disabled.**

738 It is the policy of this state that h [the] A PERSON WHO IS h blind, visually [~~handicapped~~]  
 738a impaired, and otherwise



739 physically disabled shall be employed in the state service, the service of the political subdivisions  
740 of the state, in the public schools, and in all other employment supported in whole or in part by  
741 public funds on the same terms and conditions as the able-bodied, unless it is shown that the  
742 particular disability prevents the performance of the work involved.

743 Section 21. Section **31A-22-611** is amended to read:

744 **31A-22-611. Policy extension for children with a disability.**

745 (1) Every disability insurance policy or contract that provides that coverage of a dependent  
746 child of a person insured under the policy shall:

747 (a) terminate upon reaching a limiting age as specified in the policy~~[-shall]; and~~

748 (b) also provide that the age limitation does not terminate the coverage of a dependent  
749 child while the child is and continues to be both:

750 ~~[(a)]~~ (i) incapable of self-sustaining employment because of mental retardation or physical  
751 ~~[handicap]~~ disability; and

752 ~~[(b)]~~ (ii) chiefly dependent upon the person insured under the policy for support and  
753 maintenance.

754 (2) The insurer may require proof of the incapacity and dependency be furnished by the  
755 person insured under the policy within 30 days of the date the child attains the limiting age, and  
756 at any time thereafter, except that the insurer may not require proof more often than annually after  
757 the two-year period immediately following attainment of the limiting age by the child.

758 Section 22. Section **34-38-14** is amended to read:

759 **34-38-14. Employee not "disabled."**

760 An employee or prospective employee whose drug or alcohol test results are verified or  
761 confirmed as positive in accordance with the provisions of this chapter may not, ~~[by virtue]~~  
762 because of those results alone, be defined as a person with a ~~["handicap"]~~ "disability" for purposes  
763 of Title 34A, Chapter 5, Utah Antidiscrimination Act.

764 Section 23. Section **34-40-104** is amended to read:

765 **34-40-104. Exemptions.**

766 (1) The minimum wage established in this chapter does not apply to:

767 (a) any employee who is entitled to a minimum wage as provided in 29 U.S.C. Sec. 201  
768 et seq., the Fair Labor Standards Act of 1938, as amended;

769 (b) outside sales persons;

- 770 (c) an employee who is a member of the employer's immediate family;
- 771 (d) companionship service for persons who, because of age or infirmity, are unable to care  
772 for themselves;
- 773 (e) casual and domestic employees as defined by the commission;
- 774 (f) seasonal employees of nonprofit camping programs, religious or recreation programs,  
775 and nonprofit educational and charitable organizations registered under Title 13, Chapter 22,  
776 Charitable Solicitations Act;
- 777 (g) an individual employed by the United States of America;
- 778 (h) any prisoner employed through the penal system;
- 779 (i) any employee employed in agriculture if the employee:
- 780 (i) is principally engaged in the range production of livestock;
- 781 (ii) is employed as a harvest laborer and is paid on a piece rate basis in an operation that  
782 has been and is generally recognized by custom as having been paid on a piece rate basis in the  
783 region of employment;
- 784 (iii) was employed in agriculture less than 13 weeks during the preceding calendar year;
- 785 or
- 786 (iv) is a retired or semiretired person performing part-time or incidental work as a  
787 condition of the employee's residence on a farm or ranch;
- 788 (j) registered apprentices or students employed by the educational institution in which they  
789 are enrolled; or
- 790 (k) any seasonal hourly employee employed by a seasonal amusement establishment with  
791 permanent structures and facilities if the other direct monetary compensation from tips, incentives,  
792 commissions, end-of-season bonus, or other forms of pay is sufficient to cause the average hourly  
793 rate of total compensation for the season of seasonal hourly employees who continue to work to  
794 the end of the operating season to equal the applicable minimum wage if the seasonal amusement  
795 establishment:
- 796 (i) does not operate for more than seven months in any calendar year; or
- 797 (ii) during the preceding calendar year its average receipts for any six months of ~~such~~ that  
798 year were not more than 33-1/3% of its average receipts for the other six months of ~~such~~ that  
799 year.
- 800 (2) ~~(a) [Handicapped individuals]~~ Persons with a disability whose earnings or productive

801 capacities are impaired by age, physical or mental deficiencies, or injury may be employed at  
 802 wages that are lower than the minimum wage, provided the wage is related to the employee's  
 803 productivity.

804 (b) The commission may establish and regulate the wages paid or wage scales for [~~the~~  
 805 ~~handicapped individuals]~~ persons with a disability.

806 (3) The commission may establish or may set a lesser minimum wage for learners not to  
 807 exceed the first 160 hours of employment.

808 (4) Employees tipped may be paid not less than 55% of the minimum wage when the  
 809 balance received from tips, either directly or by pooling of tip receipts, is sufficient to bring the  
 810 employee to the minimum wage. Employees shall retain all tips except to the extent that they  
 811 participate in a bona fide tip pooling or sharing arrangement with other tipped employees. The  
 812 commission may by rule provide for a greater tip allowance, in conjunction with its review of the  
 813 minimum wage, under Section 34-40-103.

814 Section 24. Section **34A-5-102** is amended to read:

815 **34A-5-102. Definitions.**

816 As used in this chapter:

817 (1) "Apprenticeship" means a program for the training of apprentices including a program  
 818 providing the training of those persons defined as apprentices by Section 35A-6-102.

819 (2) "Bona fide occupational qualification" means a characteristic applying to an employee:

820 (a) that is necessary to the operation; or

821 (b) is the essence of the employee's employer's business.

822 (3) "Court" means:

823 (a) the district court in the judicial district of the state in which the asserted unfair  
 824 employment practice occurred; or

825 (b) if this court is not in session at that time, a judge of the court described in Subsection  
 826 (3)(a).

827 (4) "Director" means the director of the division.

828 (5) "Disability" means a physical or mental ~~h~~ **[impairment]** DISABILITY ~~h~~ [that substantially  
 828a limits one or  
 829 more of an individual's major life activities] as defined and covered by the Americans with  
 830 Disabilities Act of 1990, 42 U.S.C. 12102.

831 (6) "Division" means the Division of Antidiscrimination and Labor.

- 832 (7) "Employee" means any person applying with or employed by an employer.
- 833 (8) (a) "Employer" means:
- 834 (i) the state;
- 835 (ii) any political subdivision;
- 836 (iii) a board, commission, department, institution, school district, trust, or agent of the state
- 837 or its political subdivisions; or
- 838 (iv) a person employing 15 or more employees within the state for each working day in
- 839 each of 20 calendar weeks or more in the current or preceding calendar year.
- 840 (b) "Employer" does not include:
- 841 (i) a religious organization or association;
- 842 (ii) a religious corporation sole; or
- 843 (iii) any corporation or association constituting a wholly owned subsidiary or agency of
- 844 any religious organization or association or religious corporation sole.
- 845 (9) "Employment agency" means any person:
- 846 (a) undertaking to procure employees or opportunities to work for any other person; or
- 847 (b) holding itself out to be equipped to take an action described in Subsection (9)(a).
- 848 (10) "Joint apprenticeship committee" means any association of representatives of a labor
- 849 organization and an employer providing, coordinating, or controlling an apprentice training
- 850 program.
- 851 (11) "Labor organization" means any organization that exists for the purpose in whole or
- 852 in part of:
- 853 (a) collective bargaining;
- 854 (b) dealing with employers concerning grievances, terms or conditions of employment; or
- 855 (c) other mutual aid or protection in connection with employment.
- 856 (12) "National origin" means the place of birth, domicile, or residence of an individual or
- 857 of an individual's ancestors.
- 858 (13) "On-the-job-training" means any program designed to instruct a person who, while
- 859 learning the particular job for which the person is receiving instruction:
- 860 (a) is also employed at that job; or
- 861 (b) may be employed by the employer conducting the program during the course of the
- 862 program, or when the program is completed.

863 (14) "Person" means one or more individuals, partnerships, associations, corporations,  
864 legal representatives, trusts or trustees, receivers, the state and all political subdivisions and  
865 agencies of the state.

866 (15) "Presiding officer" means the same as that term is defined in Section 63-46b-2.

867 (16) "Prohibited employment practice" means a practice specified as discriminatory, and  
868 therefore unlawful, in Section 34A-5-106.

869 (17) "Retaliate" means the taking of adverse action by an employer, employment agency,  
870 labor organization, apprenticeship program, on-the-job training program, or vocational school  
871 against one of its employees, applicants, or members because the employee, applicant, or member:

872 (a) has opposed any employment practice prohibited under this chapter; or

873 (b) filed charges, testified, assisted, or participated in any way in any proceeding,  
874 investigation, or hearing under this chapter.

875 (18) "Vocational school" means any school or institution conducting a course of  
876 instruction, training, or retraining to prepare individuals to follow an occupation or trade, or to  
877 pursue a manual, technical, industrial, business, commercial, office, personal services, or other  
878 nonprofessional occupations.

879 Section 25. Section **41-1a-408** is amended to read:

880 **41-1a-408. Special group plates -- Design -- Application -- Issuance.**

881 (1) As used in this section:

882 (a) "Boy Scouts of America license plates" means the special group license plates issued  
883 under this section to a contributor to the Boy Scouts of America.

884 (b) "Children's issues license plates" means the special group license plates issued under  
885 this section to a contributor to the Guardian Ad Litem Services Account and the Children's  
886 Museum of Utah.

887 (c) "Collegiate license plates" means the special group license plates issued under this  
888 section to a contributor to an institution after payment of the appropriate fees.

889 (d) (i) "Contributor" means a person who has donated or in whose name at least \$25 has  
890 been donated to:

891 (A) a scholastic scholarship fund of a single institution;

892 (B) the Office of Veterans' Affairs in the Department of Community and Economic  
893 Development for veterans' programs;

894 (C) the Division of Wildlife Resources for conservation of wildlife and the enhancement,  
895 preservation, protection, access, and management of wildlife habitat;

896 (D) the Department of Agriculture and Food for the benefit of soil conservation districts;

897 (E) the Division of Parks and Recreation for the benefit of snowmobile programs;

898 (F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with  
899 the donation evenly divided between the two; or

900 (G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council  
901 as specified by the contributor.

902 (ii) Except as provided under Subsection (13), the donation must be made in the 12 months  
903 prior to registration or renewal of registration.

904 (e) "Institution" means a state institution of higher education or a private institution of  
905 higher education in the state accredited by a regional or national accrediting agency recognized by  
906 the United States Department of Education.

907 (f) "Snowmobile license plates" means the special group license plates issued under this  
908 section to a contributor to the Division of Parks and Recreation after payment of the appropriate  
909 fees.

910 (g) "Soil conservation license plates" means the special group license plates issued under  
911 this section to a contributor to the Department of Agriculture and Food after payment of the  
912 appropriate fees.

913 (h) "State institution of higher education" has the same meaning as provided in Section  
914 53B-3-102.

915 (i) "Veterans' license plates" means the special group license plates issued under this  
916 section to a contributor to the Office of Veterans' Affairs after payment of the appropriate fees.

917 (j) "Wildlife license plates" means the special group license plates issued under this section  
918 to a contributor to the Division of Wildlife Resources after payment of the appropriate fees.

919 (2) (a) The design and maximum number of numerals or characters on special group  
920 license plates shall be determined by the division in accordance with the criteria in Subsection  
921 (2)(b).

922 (b) Except for Olympic special group license plates, each special group license plate shall  
923 display:

924 (i) the word Utah;

- 925 (ii) the name or identifying slogan of the special group;
- 926 (iii) a symbol not exceeding two positions in size representing the special group; and
- 927 (iv) the combination of letters, numbers, or both uniquely identifying the registered
- 928 vehicle.
- 929 (3) (a) The division shall, after consultation with a representative designated by the special
- 930 group, specify the word or words comprising the special group name and the symbol to be
- 931 displayed upon the special group license plates.
- 932 (b) Collegiate, veterans', children's issues, snowmobile, soil conservation, Boy Scouts of
- 933 America, and wildlife license plates may not be redesigned under this section more frequently than
- 934 every five years.
- 935 (c) Veterans' license plates shall display one of the symbols representing the Army, Navy,
- 936 Air Force, Marines, or Coast Guard.
- 937 (4) Subject to Subsections (10) and (12), the division shall only issue special group license
- 938 plates to a person who is:
- 939 (a) a current member of the Legislature;
- 940 (b) a current member of the United States Congress;
- 941 (c) a survivor of the Japanese attack on Pearl Harbor;
- 942 (d) a former prisoner of war;
- 943 (e) a recipient of a Purple Heart, as provided in Section 41-1a-409;
- 944 (f) a current member of the National Guard;
- 945 (g) a person with a disability or the registered owner of a vehicle that an organization uses
- 946 primarily for the transportation of persons with disabilities that limit or impair the ability to walk;
- 947 (h) a contributor to an institution's scholastic scholarship fund;
- 948 (i) a contributor to the Division of Wildlife Resources;
- 949 (j) a contributor to the Office of Veterans' Affairs;
- 950 (k) licensing a special interest vehicle;
- 951 (l) licensing a vintage vehicle;
- 952 (m) a licensed amateur radio operator;
- 953 (n) registering a farm truck;
- 954 (o) a currently employed, volunteer, or retired firefighter;
- 955 (p) a contributor to the Division of Parks and Recreation;

956 (q) a contributor to the Department of Agriculture and Food;

957 (r) a contributor to the Guardian Ad Litem Services Account and the Children's Museum  
958 of Utah;

959 (s) a contributor to the Boy Scouts of America; or

960 (t) an emergency medical technician.

961 (5) (a) A vehicle displaying a survivor of the Japanese attack on Pearl Harbor license plate  
962 decal, a former prisoner of war license plate decal, or a Purple Heart license plate decal shall be  
963 titled in the name of the veteran or the veteran and spouse.

964 (b) Upon the death of the veteran, the surviving spouse may, upon application to the  
965 division, retain the special group license plate decal so long as the surviving spouse remains  
966 unmarried.

967 (c) The division shall require the surviving spouse to make a sworn statement that the  
968 surviving spouse is unmarried before renewing the registration under this section.

969 (6) (a) (i) In accordance with rules made under Subsection (12), the division shall issue  
970 a person with a disability special group license plate, temporary removable windshield placard, or  
971 a removable windshield placard to:

972 (A) a qualifying person with a disability; or

973 (B) an organization that uses a vehicle registered in the applicant's name primarily for the  
974 transportation of persons with disabilities that limit or impair the ability to walk.

975 (ii) The division shall issue a person with a disability special group license plate or a  
976 removable windshield placard to a person with a permanent disability.

977 (iii) The issuance of a person with a disability special group license plate does not preclude  
978 the issuance to the same applicant of a removable windshield placard.

979 (iv) The division shall issue on request one additional placard to a person with a person  
980 with a disability special group license plate, temporary removable windshield placard, or a  
981 removable windshield placard.

982 (b) The temporary removable windshield placard or removable windshield placard shall  
983 be hung from the front windshield rearview mirror when the vehicle is parked in a parking space  
984 reserved for persons with disabilities so that it is visible from the front and rear of the vehicle.

985 (7) (a) An applicant for original or renewal collegiate license plates must be a contributor  
986 to the institution named in the application and present the original contribution verification form



987 or make a contribution to the division at the time of application.

988 (b) An institution with a special group license plate shall issue to a contributor a  
989 verification form designed by the commission containing:

990 (i) the name of the contributor;

991 (ii) the institution to which a donation was made;

992 (iii) the date of the donation; and

993 (iv) an attestation that the donation was for a scholastic scholarship.

994 (c) The state auditor may audit each institution to verify that the moneys collected by the  
995 institutions from contributors are used for scholastic scholarships.

996 (d) After an applicant has been issued collegiate license plates or renewal decals, the  
997 commission shall charge the institution whose plate was issued, a fee determined in accordance  
998 with Section 63-38-3.2 for management and administrative expenses incurred in issuing and  
999 renewing the collegiate license plates.

1000 (e) If the contribution is made at the time of application, the contribution shall be:

1001 (i) collected by the division;

1002 (ii) treated as a voluntary contribution for the named institution's scholastic scholarship  
1003 fund and not as a motor vehicle registration fee; and

1004 (iii) deposited with the named institution, less actual production and administrative costs  
1005 associated with making and issuing collegiate license plates.

1006 (8) (a) An applicant for original or renewal wildlife license plates must be a contributor  
1007 to the Division of Wildlife Resources.

1008 (b) This contribution shall be:

1009 (i) collected by the division;

1010 (ii) treated as a voluntary contribution for the funding of wildlife activities and not as a  
1011 motor vehicle registration fee; and

1012 (iii) deposited into the Wildlife Resources Account created in Section 23-14-13, less actual  
1013 production and administrative costs associated with making and issuing wildlife license plates.

1014 (9) The division shall issue Olympic special group license plates.

1015 (10) (a) An organization that makes a significant contribution to the state may request the  
1016 commission to authorize special group license plates for the organization if the organization  
1017 collects a minimum of 500 applications with the fees required under Section 41-1a-1211.

1018 (b) If the commission approves the request, the division shall design a license plate in  
1019 accordance with Subsections (2) and (3).

1020 (c) If the commission rejects the request, the organization shall refund all fees to the  
1021 applicants.

1022 (11) Any person who meets the criteria established under this part for issuance of special  
1023 group license plates may make application in the same manner provided in Sections 41-1a-410 and  
1024 41-1a-411 for personalized special group license plates.

1025 (12) (a) The commission shall make rules in accordance with Title 63, Chapter 46a, Utah  
1026 Administrative Rulemaking Act, to:

1027 (i) establish qualifying criteria for persons to receive, renew, or surrender special group  
1028 license plates, a temporary removable windshield placard, or a removable windshield placard;

1029 (ii) establish the maximum number of numerals or characters for special group license  
1030 plates; and

1031 (iii) require all temporary removable windshield placards and removable windshield  
1032 placards to include:

1033 (A) an identification number;

1034 (B) an expiration date not to exceed six months for a temporary removable windshield  
1035 placard and two years for a removable windshield placard; and

1036 (C) the seal or other identifying mark of the division.

1037 (b) The qualifying criteria under Subsection (12)(a) for a person with a disability special  
1038 group license plate, temporary removable windshield placard, or removable windshield placard  
1039 shall include a requirement that an initial application of a person with a disability be accompanied  
1040 by the certification of a licensed physician:

1041 (i) that the applicant meets the definition of a person with a disability that limits or impairs  
1042 the ability to walk as defined in the federal Uniform System for ~~[Handicapped]~~ Parking for Persons  
1043 with Disabilities, [58 Fed. Reg. 10, 328 (1991)] 23 C.F.R. Ch. 11, Subch. B, Pt. 1235.2 (1991);  
1044 and

1045 (ii) containing the period of time that the physician determines the applicant will have the  
1046 disability, not to exceed six months in the case of a temporary disability.

1047 (13) (a) The division may issue original veterans' license plates.

1048 (b) An applicant for original veterans' license plates must be at least a one-time contributor

1049 to the Office of Veterans' Affairs.

1050 (c) This contribution shall be:

1051 (i) collected by the division;

1052 (ii) treated as a voluntary contribution for the Office of Veterans' Affairs and not as a  
1053 motor vehicle registration fee; and

1054 (iii) transferred to the Office of Veterans' Affairs at least monthly, less actual production  
1055 and administrative costs associated with making and issuing veterans' license plates.

1056 (14) (a) The division may issue original snowmobile license plates if the Division of Parks  
1057 and Recreation provides a one-time contribution of at least \$9,000 to the division from restricted  
1058 revenue in the Off-Highway Vehicle Account in the General Fund to cover startup materials and  
1059 programming costs.

1060 (b) An applicant for original snowmobile license plates must be a contributor to the  
1061 Division of Parks and Recreation.

1062 (c) This contribution shall be:

1063 (i) collected by the division;

1064 (ii) treated as a voluntary contribution for the Division of Parks and Recreation for the  
1065 benefit of snowmobile programs and not as a motor vehicle registration fee; and

1066 (iii) transferred to the Division of Parks and Recreation at least monthly, less actual  
1067 production and administrative costs associated with making and issuing snowmobile license plates.

1068 (15) (a) (i) The division may issue original soil conservation license plates if soil  
1069 conservation districts provide a one-time contribution of at least \$9,000 to the division to cover  
1070 startup materials and programming costs.

1071 (ii) The contribution described in Subsection (15)(a)(i) may be from private funds  
1072 available to soil conservation districts.

1073 (b) An applicant for original soil conservation license plates must be a contributor to the  
1074 Department of Agriculture and Food.

1075 (c) This contribution shall be:

1076 (i) collected by the division;

1077 (ii) treated as a voluntary contribution for the Department of Agriculture and Food for the  
1078 benefit of soil conservation districts and not as a motor vehicle registration fee; and

1079 (iii) transferred to the Department of Agriculture and Food at least monthly, less actual

1080 production and administrative costs associated with making and issuing soil conservation license  
1081 plates.

1082 (16) (a) (i) The division may issue original children's issues license plates if the Office of  
1083 the Guardian Ad Litem Director and the Children's Museum of Utah each provide a one-time  
1084 contribution of at least \$4,500 to the division to cover startup materials and programming costs.

1085 (ii) The contribution described in Subsection (16)(a)(i) from the Office of the Guardian  
1086 Ad Litem Director shall be from private funds not normally available to the Office of the Guardian  
1087 Ad Litem Director.

1088 (b) An applicant for original or renewal children's issues license plates must be a  
1089 contributor to the Guardian Ad Litem Services Account and the Children's Museum of Utah.

1090 (c) This contribution shall be:

1091 (i) collected by the division;

1092 (ii) treated as a voluntary contribution for the Guardian Ad Litem Services Account and  
1093 the Children's Museum of Utah and not as a motor vehicle registration fee; and

1094 (iii) transferred to the Guardian Ad Litem Services Account and the Children's Museum  
1095 of Utah at least monthly, less actual production and administrative costs associated with making  
1096 and issuing children's issues license plates.

1097 (17) A current member of the Legislature may select the Olympic license plate as the  
1098 legislator's special group license plate. The legislator shall pay the special fees for the Olympic  
1099 license plate, as provided in Section 41-1a-417 and Subsection 41-1a-1211(12).

1100 (18) (a) Beginning January 1, 2001, the division may issue original Boy Scouts of America  
1101 license plates if the Boy Scouts of America provides a one-time contribution of at least \$9,000 to  
1102 the division to cover startup materials and programming costs.

1103 (b) An applicant for original or renewal Boy Scouts of America license plates must be a  
1104 contributor to the Boy Scouts of America.

1105 (c) This contribution shall be:

1106 (i) collected by the division;

1107 (ii) treated as a voluntary contribution for the Boy Scouts of America and not as a motor  
1108 vehicle registration fee; and

1109 (iii) transferred to the Boy Scouts of America at least monthly, less actual production and  
1110 administrative costs associated with making and issuing Boy Scouts of America license plates.

1111 Section 26. Section **49-1-103** is amended to read:

1112 **49-1-103. Definitions.**

1113 As used in this title:

1114 (1) "Accumulated contributions" means the sum of the contributions made by or on behalf  
1115 of a member and standing to the credit of the member's individual account, including regular  
1116 interest where allowed by law.

1117 (2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis  
1118 of mortality tables adopted by the board, including regular interest.

1119 (3) "Actuarial interest rate" means the interest rate adopted by the board upon the  
1120 recommendation of the actuary and upon which the funding of retirement system costs and benefits  
1121 are computed.

1122 (4) "Administrator" means the executive director of the board.

1123 (5) "Agency" means:

1124 (a) a department, division, agency, office, authority, commission, board, institution, or  
1125 hospital of the state;

1126 (b) a county, municipality, school district, or special district;

1127 (c) a state college or university; or

1128 (d) any other individual employing unit that participates in a system administered by the  
1129 board.

1130 (6) "Allowance" means the pension plus the annuity, including any cost of living or other  
1131 authorized adjustments to the pension and annuity.

1132 (7) "Annuity" means annual payments for life derived from contributions made by the  
1133 employee.

1134 (8) "Beneficiary" means any person entitled to receive a retirement allowance or other  
1135 benefit provided by this title.

1136 (9) "Board" or "retirement board" means the Utah State Retirement Board established  
1137 under this title.

1138 (10) "Contributions" means the contributions by the employer and the member, if any, into  
1139 a retirement fund.

1140 (11) "Current service" means covered service rendered after the effective date of each  
1141 system.

1142 (12) "Department" means any department, office, board, commission, instrumentality, or  
1143 other agency of the state.

1144 (13) "Dependent beneficiary" means a spouse, child, or children under 21 years of age, a  
1145 ~~[physically or mentally handicapped]~~ child or children with a physical or mental disability,  
1146 regardless of age, or a parent, or person, regardless of age or relationship, who is or are financially  
1147 dependent upon the member. The dependency of a person other than a spouse or child shall be  
1148 proved by written verified documents acceptable to the board or by a copy of the member's state  
1149 income tax return for the last reportable year listing the person as a dependent. All documents are  
1150 subject to review and approval of the administrator.

1151 (14) "Employer" or "employing unit" means any department, educational institution,  
1152 political subdivision, organization, or agency financed in whole or in part by public funds for  
1153 which any employee or member performs services subject to this title.

1154 (15) "Inactive member" means a member who has received no compensation for a period  
1155 longer than four months.

1156 (16) (a) "Member" means any person included in the membership of any retirement system  
1157 administered by the board.

1158 (b) A person is considered to be a member if he has contributions on deposit with the  
1159 retirement system or with the terminated system. "Member" also includes leased employees within  
1160 the meaning of Section 414(n)(2) of the federal Internal Revenue Code. If leased employees  
1161 constitute less than 20% of the employer's work force that is not highly compensated within the  
1162 meaning of Section 414(n)(5)(c)(ii) , Internal Revenue Code, "member" does not include leased  
1163 employees covered by a plan described in Section 414(n)(5) of the federal Internal Revenue Code.

1164 (17) "Office" or "retirement office" means the Utah State Retirement Office.

1165 (18) "Participating employer" or "participating employing unit" means any employer or  
1166 employing unit participating in the system whose employees are members of the system.

1167 (19) "Payroll" means a register, warrant, or any other document upon which all persons  
1168 receiving salary payments are listed.

1169 (20) "Pension" means annual payments for life derived from contributions made by  
1170 employers.

1171 (21) "Political subdivision" means any political subdivision of the state, including cities,  
1172 towns, counties, and school districts, but only if the subdivision is a juristic entity that is legally

1173 separate and distinct from the state and only if its employees are not by virtue of their relationship  
1174 to the entity, employees of the state or one of its departments.

1175 (a) The term includes special districts or authorities created by the Legislature or by local  
1176 governments including mosquito abatement districts, sewer or water districts, water associations  
1177 and companies, libraries, and any entity arising out of a consolidation agreement between political  
1178 subdivisions.

1179 (b) The term includes the retirement office.

1180 (c) The term does not include a project entity created under Title 11, Chapter 13, Interlocal  
1181 Cooperation Act.

1182 (22) "Prior service" means service rendered prior to the effective date of each system.

1183 (23) "Refund" means a return of contributions to a terminating member.

1184 (24) "Regular interest" means interest compounded annually at a rate adopted by the board  
1185 in accordance with this title.

1186 (25) "Retirant" means a retired member who is receiving retirement benefits.

1187 (26) "Retirement" means withdrawal from active service with a retirement allowance  
1188 granted under this title.

1189 (27) "Service" or "covered service" means service used in the computation of benefits.

1190 Section 27. Section **49-5-103** is amended to read:

1191 **49-5-103. Definitions.**

1192 As used in this chapter:

1193 (1) (a) "Compensation," "salary," or "wages" means the total amount of payments [~~which~~]  
1194 that are currently includable in gross income made by an employer to an employee for services  
1195 rendered to the employer as base income. Base income shall be determined prior to any salary  
1196 deductions or reductions for any salary deferral or pretax benefit programs authorized by federal  
1197 law, for the position covered under the retirement system.

1198 (b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.

1199 (c) "Compensation" does not include:

1200 (i) overtime;

1201 (ii) sick pay incentives;

1202 (iii) retirement pay incentives;

1203 (iv) remuneration paid in kind such as a residence, use of equipment, uniforms, or travel

1204 allowances;

1205 (v) a lump-sum payment or special payments covering accumulated leave; and

1206 (vi) all contributions made by an employer under this plan or under any other employee  
1207 benefit plan maintained by an employer for the benefit of a participant.

1208 (d) "Compensation" for purposes of this chapter may not exceed the amount allowed under  
1209 Internal Revenue Code Section 401(a)(17).

1210 (2) (a) "Disability" means a physical or mental condition [~~which~~] that, in the judgment of  
1211 the board, is total and presumably permanent, prevents a member from fulfilling the  
1212 responsibilities of the member's assignment, and prevents the member from performing  
1213 satisfactorily in some other assignment of the same general class.

1214 (b) The determination of disability is based upon medical and other evidence satisfactory  
1215 to the board.

1216 (3) "Employer" or "employing unit" means any regularly constituted fire department of a  
1217 political subdivision for which any employee or member performs services subject to this chapter.

1218 (4) "Final average salary" means the amount computed by averaging the highest three years  
1219 of annual compensation preceding retirement, but not including overtime or lump-sum or special  
1220 salary adjustments received instead of uniform or other allowances or expenses or other payments  
1221 made covering accumulated leave.

1222 (a) Except as provided in Subsection (4)(b), the percentage increase in any one of the years  
1223 used may not exceed the previous year's salary by more than 10% plus a cost-of-living adjustment  
1224 equal to the decrease in the purchasing power of the dollar during the previous year, as measured  
1225 by the Consumer Price Index prepared by the United States Bureau of Labor Statistics.

1226 (b) In cases where the employing unit provides acceptable documentation to the board the  
1227 limitation in Subsection (4)(a) may be exceeded if:

1228 (i) the member has transferred from another employing unit; or

1229 (ii) the member has been promoted to a new position.

1230 (5) "Firefighter service" means full-time paid service rendered as an individual or as a  
1231 member of a group of firefighters regularly assigned to a regularly constituted fire department.

1232 (6) "Full-time service" means 2,080 hours per year.

1233 (7) "Inactive member" means a member who has received no compensation for a period  
1234 of longer than four months.



1235 (8) "Line-of-duty death or disability" means a death or any physical or mental disability  
1236 resulting from external force, violence, or disease occasioned by an act of duty as a firefighter and  
1237 includes for a paid firefighter, after five years of credited service, any death or disability resulting  
1238 from heart disease, lung disease, or respiratory tract, but if a firefighter ceases to be a contributing  
1239 member because of personal illness or service-connected disability, neither of which is related to  
1240 heart or lung disease nor the respiratory tract for a period of six months or more and then again  
1241 becomes a contributing member, the provision relating to death or disability resulting from heart,  
1242 lung, or respiratory disease does not apply until the member again becomes a contributing member  
1243 for a period of not less than two years or unless clear and precise evidence is presented that the  
1244 heart, lung, or respiratory disease was, in fact, occasioned in the line-of-duty.

1245 (9) (a) "Member" means any person included in the membership of the retirement system.

1246 (b) A person is a member if the person has contributions on deposit with the retirement  
1247 system.

1248 (c) A person hired on or after July 1, 1971, in a fire department, who is assigned directly  
1249 to a clerical position, and because of lack of training in fire fighting techniques, is not subject to  
1250 reassignment into positions of hazardous duty, is not eligible for membership in this system.

1251 (i) The person in a clerical position shall become a contributing member of the appropriate  
1252 retirement system.

1253 (ii) The required employer contributions shall be paid by the fire department.

1254 (iii) This membership exclusion may not be interpreted to prohibit the assignment of a  
1255 ~~handicapped~~ disabled or partially disabled firefighter to that position.

1256 (iv) If Subsection (9)(c)(iii) applies, the firefighter retains status as a contributing member  
1257 of this system and continues to accrue service credits while so employed.

1258 (10) "Regularly constituted fire department" means a fire department ~~which~~ that employs  
1259 a full-time fire chief and promulgates rules.

1260 (11) (a) "Service" or "covered service" means firefighter service rendered an employer for  
1261 compensation ~~which is~~ included in computations relating to membership status or benefit rights  
1262 under this chapter.

1263 (b) A retirement allowance or other benefit may not be granted under this system that is  
1264 based upon the same service for retirement benefits under some other retirement system  
1265 administered by the board.

1266 (12) (a) "Volunteer firefighter" means any individual that is not regularly employed as a  
1267 firefighter, but who is on the rolls of a regularly constituted fire department.

1268 (b) An individual that volunteers assistance but is not a regularly enrolled firefighter is not  
1269 a volunteer firefighter.

1270 (c) Service as a volunteer firefighter is not creditable towards qualifying for a service  
1271 retirement allowance.

1272 (13) "Years of service" or "service years" means the number of periods consisting of 12  
1273 full months as determined by the board, whether consecutive or not, during which an employee  
1274 performed services for an employer or received full-time pay while on sick leave, including any  
1275 time the employee was absent in the service of the United States.

1276 Section 28. Section **53A-1-402** is amended to read:

1277 **53A-1-402. Board to establish minimum standards for public schools.**

1278 (1) The State Board of Education shall establish rules and minimum standards for the  
1279 public schools, to include:

1280 (a) the qualification and certification of educators and ancillary personnel who provide  
1281 direct student services, required school administrative and supervisory services, and evaluation of  
1282 instructional personnel;

1283 (b) access to programs, attendance, competency levels, graduation requirements, discipline  
1284 and control, and health and safety requirements;

1285 (c) school accreditation, the academic year, alternative and pilot programs, curriculum and  
1286 instruction requirements, school libraries, and services to ~~the handicapped~~ persons with a  
1287 disability as defined by and covered under the Americans with Disabilities Act of 1990, 42 U.S.C.  
1288 12102; the Rehabilitation Act of 1973, 29 U.S.C. 705(20)(A); and the Individuals with Disabilities  
1289 and Education Act, 20 U.S.C. 1401(3); and other special groups;

1290 (d) requirements for school design, general educational specifications, school sites, and  
1291 building accessibility;

1292 (e) state reimbursed bus routes, bus safety and operational requirements, and other  
1293 transportation needs; and

1294 (f) school productivity and cost effectiveness measures, the minimum school program,  
1295 school building aid, school lunch, driver education, federal programs, school budget formats, and  
1296 financial, statistical, and student accounting requirements.

1297 (2) The board shall determine whether the minimum standards have been met, and that  
1298 required reports are properly submitted.

1299 (3) The board may apply for, receive, administer, and distribute to eligible applicants funds  
1300 made available through programs of the federal government.

1301 Section 29. Section **53A-9-103** is amended to read:

1302 **53A-9-103. Authorized components.**

1303 Career ladders may include the following components:

1304 (1) A career ladder may have an extended contract year for teachers, providing for  
1305 additional paid nonteaching days beyond the regular school year for curriculum development,  
1306 inservice training, preparation, and related activities. School boards may approve individual  
1307 exceptions to the extended year contract.

1308 (2) It may have, at the option of the local school board, an extended contract year for  
1309 teachers, providing for additional paid workdays beyond the regular school year for teaching  
1310 assignments in summer school, remedial, [~~handicapped~~] disabled, specialized, vocational, gifted  
1311 and talented, and adult education programs.

1312 (3) It may have a fair and consistent procedure for selecting teachers who will be given  
1313 additional responsibilities. The selection procedure shall incorporate clearly stated job descriptions  
1314 and qualifications for each level on the career ladder.

1315 (4) (a) It may have a program of differentiated staffing that provides additional  
1316 compensation and, as appropriate, additional extensions of the contract year, for those who assume  
1317 additional instruction-related responsibilities such as:

1318 [~~(a)~~] (i) assisting students and beginning teachers;

1319 [~~(b)~~] (ii) curriculum and lesson plan development;

1320 [~~(c)~~] (iii) helping established teachers improve their teaching skills;

1321 [~~(d)~~] (iv) volunteer training;

1322 [~~(e)~~] (v) planning[;];

1323 (vi) facilities and productivity improvements; and

1324 [~~(f)~~] (vii) educational assignments directed at establishing positive relationships with the  
1325 community, businesses, and parents.

1326 (b) Administrative and extracurricular activities are not considered additional  
1327 instruction-related activities under this Subsection (4).

1328 (5) It may have a well defined program of evaluation and guidance for beginning teachers,  
1329 designed to assist those teachers during provisional years of teaching to acquire and demonstrate  
1330 the skills required of capable, successful teachers. Continuation in teaching from year to year shall  
1331 be contingent upon satisfactory teaching performance.

1332 (6) It may have a clear and concise explanation of the evaluation system components,  
1333 including the respective roles of parents, teachers, administrators, and the school board in the  
1334 development of the evaluation system. The system shall provide for frequent, comprehensive  
1335 evaluations of teachers with less than three years' teaching experience, and periodic evaluations  
1336 of other teachers.

1337 (7) Advancement on the career ladder program is contingent upon effective teaching  
1338 performance, evidence of which may include formal evaluation and assessment of student  
1339 progress. Student progress shall play a significant role in teacher evaluation. Other criteria may  
1340 include formal preparation and successful teaching experience.

1341 (8) It may include an assessment of implementation costs.

1342 (9) It may have a plan for periodic review of the career ladder including the makeup of the  
1343 reviewing entity, procedures to be followed during review, and the time schedule for the review.

1344 Section 30. Section **53A-11-203** is amended to read:

1345 **53A-11-203. Vision screening.**

1346 (1) A child under seven years of age entering school for the first time in this state must  
1347 present the following to the school:

1348 (a) a certificate signed by a licensed physician, optometrist, or other licensed health  
1349 professional approved by the division, stating that the child has received vision screening to  
1350 determine the presence of amblyopia or other visual defects. As used in this section, "division"  
1351 means the Division of Services for the Blind and Visually [Handicapped] Impaired, State Office  
1352 of Education; or

1353 (b) a written statement signed by at least one parent or legal guardian of the child that the  
1354 screening violates the personal beliefs of the parent or legal guardian.

1355 (2) The division shall provide vision screening report forms to persons approved by the  
1356 division to conduct the screening.

1357 (3) Each school district may conduct free vision screening clinics for children aged 3-1/2  
1358 to seven.

1359 (4) The division shall maintain a central register of children, aged 3-1/2 to seven, who fail  
1360 vision screening and who are referred for follow-up treatment. The register shall include the name  
1361 of the child, age or birthdate, address, cause for referral, and follow-up results. Each school district  
1362 shall report referral follow-up results to the division.

1363 (5) The division shall coordinate and supervise the training of persons who serve as vision  
1364 screeners.

1365 (6) A licensed health professional providing vision care to private patients may not  
1366 participate as a screener in free vision screening programs provided by school districts.

1367 (7) The Department of Health shall, by rule, set standards and procedures for vision  
1368 screening required by this chapter, and shall provide the division with copies of rules, standards,  
1369 instructions, and test charts necessary for conducting vision screening.

1370 (8) The division shall supervise screening, referral, and follow-up required by this chapter.

1371 Section 31. Section **53A-17a-106** is amended to read:

1372 **53A-17a-106. Determination of weighted pupil units.**

1373 The number of weighted pupil units in the minimum school program for each year is the  
1374 total of the units for each school district determined as follows:

1375 (1) The number of units is computed by adding the average daily membership of all pupils  
1376 of the district attending schools, other than kindergarten and self-contained classes for  
1377 [~~handicapped~~] children with a disability.

1378 (2) The number of units is computed by adding the average daily membership of all pupils  
1379 of the district enrolled in kindergarten and multiplying the total by .55.

1380 (a) In those districts that do not elect to hold kindergarten for a full nine-month term, the  
1381 local school board may approve a shorter term of nine weeks' duration.

1382 (b) Upon board approval, the number of pupils in average daily membership at the  
1383 short-term kindergarten shall be counted for the purpose of determining the number of units  
1384 allowed in the same ratio as the number of days the short-term kindergarten is held, not exceeding  
1385 nine weeks, compared to the total number of days schools are held in that district in the regular  
1386 school year.

1387 (3) (a) The State Board of Education shall use prior year plus growth to determine average  
1388 daily membership in distributing monies under the minimum school program where the  
1389 distribution is based on kindergarten through grade 12 ADMs or weighted pupil units.

1390 (b) Under prior year plus growth, kindergarten through grade 12 average daily membership  
1391 for the current year is based on the actual kindergarten through grade 12 average daily membership  
1392 for the previous year plus an estimated percentage growth factor.

1393 (c) The growth factor is the percentage increase in total average daily membership on the  
1394 first school day of October in the current year as compared to the total average daily membership  
1395 on the first school day of October of the previous year.

1396 Section 32. Section **53A-17a-127** is amended to read:

1397 **53A-17a-127. Eligibility for state-supported transportation -- Approved bus routes**  
1398 **-- Additional local tax.**

1399 (1) A student eligible for state-supported transportation means:

1400 (a) a student enrolled in kindergarten through grade six who lives at least 1-1/2 miles from  
1401 school;

1402 (b) a student enrolled in grades seven through 12 who lives at least two miles from school;  
1403 and

1404 (c) a student enrolled in a special program offered by a school district and approved by the  
1405 State Board of Education for trainable, motor, multiple-disabled, or other students with severe  
1406 disabilities who are incapable of walking to school or where it is unsafe for students to walk  
1407 because of their [~~handicapping~~] disabling condition, without reference to distance from school.

1408 (2) If a school district implements double sessions as an alternative to new building  
1409 construction, with the approval of the State Board of Education, those affected elementary school  
1410 students residing less than 1-1/2 miles from school may be transported one way to or from school  
1411 because of safety factors relating to darkness or other hazardous conditions as determined by the  
1412 local school board.

1413 (3) (a) The State Office of Education shall distribute transportation monies to school  
1414 districts based on three factors:

1415 (i) an allowance per mile for approved bus routes;

1416 (ii) an allowance per hour for approved bus routes; and

1417 (iii) an annual allowance for equipment and overhead costs based on approved bus routes  
1418 and the age of the equipment.

1419 (b) In order for a bus to be considered for the equipment allowance, it must meet federal  
1420 and state regulations and standards for school buses.

1421 (c) The State Office of Education shall annually review the allowance per mile, the  
1422 allowance per hour, and the annual equipment and overhead allowance and adjust the allowance  
1423 to reflect current economic conditions.

1424 (4) (a) Approved bus routes for funding purposes shall be determined on fall data collected  
1425 by October 1.

1426 (b) Approved route funding shall be determined on the basis of the most efficient and  
1427 economic routes.

1428 (5) A Transportation Advisory Committee with representation from local school  
1429 superintendents, business officials, school district transportation supervisors, and the State Office  
1430 of Education shall serve as a review committee for addressing school transportation needs,  
1431 including recommended approved bus routes.

1432 (6) (a) A local school board may provide for the transportation of students who are not  
1433 eligible under Subsection (1), regardless of the distance from school, from:

1434 (i) general funds of the district; and

1435 (ii) a tax rate not to exceed .0003 per dollar of taxable value imposed on the district.

1436 (b) A local school board may use revenue from the tax to pay for transporting participating  
1437 students to interscholastic activities, night activities, and educational field trips approved by the  
1438 board and for the replacement of school buses.

1439 (c) (i) If a local school board levies a tax under Subsection (6)(a)(ii) of at least .0002, the  
1440 state may contribute an amount not to exceed 85% of the state average cost per mile, contingent  
1441 upon the Legislature appropriating funds for a state contribution.

1442 (ii) The State Office of Education shall distribute the state contribution according to rules  
1443 enacted by the State Board of Education.

1444 (d) (i) The amount of state guarantee money to which a school district would otherwise  
1445 be entitled to under Subsection (6)(c) may not be reduced for the sole reason that the district's levy  
1446 is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 [pursuant]  
1447 due to changes in property valuation.

1448 (ii) Subsection (6)(d)(i) applies for a period of two years following the change in the  
1449 certified tax rate.

1450 (7) There is appropriated for the fiscal year beginning July 1, 1999, \$225,000 to the state  
1451 board as the state's contribution under Subsection (6)(c)(i).

1452 Section 33. Section **53A-20-103** is amended to read:

1453 **53A-20-103. Planning, design, and construction of public school buildings -- Duties**  
1454 **of State Board of Education.**

1455 The State Board of Education has the following duties:

1456 (1) It shall adopt codes to govern the preparation of plans and specifications for public  
1457 school buildings. The codes shall include minimum standards for:

1458 (a) construction, heating, ventilation, sanitation, lighting, plumbing, structural safety,  
1459 protection from fire, panic, and other dangers;

1460 (b) promotion of the safety, health, and comfort of the occupants; and

1461 (c) providing functional adaptability including suitable facilities for [~~handicapped;~~]  
1462 persons with a disability.

1463 (2) It shall require local school boards to maintain a current inventory of school plant  
1464 facilities in conformance with rules established by the board.

1465 (3) It shall establish planning procedures for school districts to determine the need for  
1466 school plant facilities. The procedures shall include definitions of methods, criteria, and other  
1467 pertinent information necessary to determine the type, size, location, and cost of school plant  
1468 facilities eligible for state financial participation.

1469 (4) It shall require local school boards to prepare and maintain surveys of school plant  
1470 capital outlay needs. The surveys shall include immediate and long-range school plant capital  
1471 outlay needs in accordance with planning procedures established by the state board and space  
1472 utilization studies, enrollment projections, district and attendance area organization, class size,  
1473 conditions of present facilities, financial structure of the district, and other necessary information.

1474 (5) It shall prepare a guide for use by school districts in formulating educational  
1475 specifications for individual building projects.

1476 (6) It shall recommend minimum requirements for contracts and agreements between  
1477 architects and engineers and local school boards. As a condition of the contract or agreement, the  
1478 state board shall require the use of independent licensed consulting engineers for engineering  
1479 design work.

1480 (7) It shall recommend minimum requirements for advertising, bidding, and contractual  
1481 procedures for school plant construction.

1482 (8) It shall provide school districts with findings regarding school designs, including



1483 flexibility of design and modular planning, new methods of construction, and new material.

1484 (9) It shall prepare an annual school plant capital outlay report of all school districts,  
1485 including tabulations of facilities available, number and size of projects completed and under  
1486 construction, and additional facilities required.

1487 Section 34. Section **53A-25-206** is amended to read:

1488 **53A-25-206. Instruction of adults with visual impairments.**

1489 Persons over 21 who are capable of receiving beneficial instruction, but are incapable  
1490 [~~because of blindness or defective sight~~] of receiving adequate instruction in other public schools  
1491 because of impaired vision, may, in the discretion of the board of trustees, be admitted to the  
1492 school.

1493 Section 35. Section **55-5-5** is amended to read:

1494 **55-5-5. State policy -- Construction of provisions.**

1495 It is the policy of this state to provide maximum opportunities for training blind or visually  
1496 [~~handicapped~~] impaired persons, helping them to become self-supporting and demonstrating their  
1497 capabilities. This act shall be construed to carry out this policy.

1498 Section 36. Section **59-10-108** is amended to read:

1499 **59-10-108. Credit for cash contributions to sheltered workshops.**

1500 (1) For tax years beginning January 1, 1983, and thereafter, in computing the tax due the  
1501 state [~~of Utah pursuant to~~] under Section 59-10-104 there shall be a tax credit allowed for cash  
1502 contributions made within the taxable year to nonprofit rehabilitation sheltered workshop facilities  
1503 for [~~the handicapped~~] persons with a disability operating in Utah [~~which~~] that are certified by the  
1504 Department of Human Services as a qualifying facility.

1505 (2) The allowable credit is an amount equal to 50% of the aggregate amount of the cash  
1506 contributions to the qualifying rehabilitation facilities, but [~~in no case shall~~] the allowed credit may  
1507 not exceed \$200.

1508 (3) The amount of contribution claimed as a tax credit [~~pursuant to~~] under this section may  
1509 not also be claimed as a charitable deduction in determining net taxable income.

1510 Section 37. Section **62A-1-111** is amended to read:

1511 **62A-1-111. Department authority.**

1512 The department [~~has authority~~] may, in addition to all other authority and responsibility  
1513 granted to it by law[~~, to~~]:

- 1514 (1) adopt rules, not inconsistent with law, as the department may consider necessary or  
1515 desirable for providing social services to the people of this state;
- 1516 (2) establish and manage client trust accounts in the department's institutions and  
1517 community programs, at the request of the client or his legal guardian or representative, or in  
1518 accordance with federal law;
- 1519 (3) purchase, as authorized or required by law, services that the department is responsible  
1520 to provide for legally eligible persons;
- 1521 (4) conduct adjudicative proceedings for clients and providers in accordance with the  
1522 procedures of Title 63, Chapter 46b, Administrative Procedures Act;
- 1523 (5) establish eligibility standards for its programs, not inconsistent with state or federal law  
1524 or regulations;
- 1525 (6) take necessary steps, including legal action, to recover money or the monetary value  
1526 of services provided to a recipient who was not eligible;
- 1527 (7) set and collect fees for its services;
- 1528 (8) license agencies, facilities, and programs, except as otherwise allowed, prohibited, or  
1529 limited by law;
- 1530 (9) acquire, manage, and dispose of any real or personal property needed or owned by the  
1531 department, not inconsistent with state law;
- 1532 (10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or the  
1533 proceeds thereof, may be credited to the program designated by the donor, and may be used for the  
1534 purposes requested by the donor, as long as the request conforms to state and federal policy; all  
1535 donated funds shall be considered private, nonlapsing funds and may be invested under guidelines  
1536 established by the state treasurer;
- 1537 (11) accept and employ volunteer labor or services; the department is authorized to  
1538 reimburse volunteers for necessary expenses, when the department considers that reimbursement  
1539 to be appropriate;
- 1540 (12) carry out the responsibility assigned in the Workforce Services Plan by the State  
1541 Council on Workforce Services;
- 1542 (13) carry out the responsibility assigned by Section 9-4-802 with respect to coordination  
1543 of services for the homeless;
- 1544 (14) carry out the responsibility assigned by Section 62A-5a-105 with respect to

1545 coordination of services for [handicapped] students with a disability;

1546 (15) provide training and educational opportunities for its staff;

1547 (16) collect child support payments and any other monies due to the department;

1548 (17) apply the provisions of Title 78, Chapter 45, Uniform Civil Liability for Support Act,

1549 to parents whose child lives out of the home in a department licensed or certified setting;

1550 (18) establish policy and procedures in cases where the department is given custody of a

1551 minor by the juvenile court pursuant to Section 78-3a-118; any policy and procedures shall

1552 include:

1553 (a) designation of interagency teams for each juvenile court district in the state;

1554 (b) delineation of assessment criteria and procedures;

1555 (c) minimum requirements, and timeframes, for the development and implementation of

1556 a collaborative service plan for each minor placed in department custody; and

1557 (d) provisions for submittal of the plan and periodic progress reports to the court;

1558 (19) carry out the responsibilities assigned to it by statute; and

1559 (20) examine and audit the expenditures of any public funds provided to local substance

1560 abuse authorities, local mental health authorities, local area agencies on aging, and any person,

1561 agency, or organization that contracts with or receives funds from those authorities or agencies.

1562 Those local authorities, area agencies, and any person or entity that contracts with or receives funds

1563 from those authorities or area agencies, shall provide the department with any information the

1564 department considers necessary. The department is further authorized to issue directives resulting

1565 from any examination or audit to local authorities, area agencies, and persons or entities that

1566 contract with or receive funds from those authorities with regard to any public funds. If the

1567 department determines that it is necessary to withhold funds from a local mental health authority

1568 or local substance abuse authority based on failure to comply with state or federal law, policy, or

1569 contract provisions, it may take steps necessary to ensure continuity of services. For purposes of

1570 this Subsection (20) "public funds" means the same as that term is defined in Sections 62A-8-101

1571 and 62A-12-101.

1572 Section 38. Section **62A-4a-105** is amended to read:

1573 **62A-4a-105. Division responsibilities.**

1574 The division shall:

1575 (1) administer services to children and families, including child welfare services, youth

1576 services, domestic violence services, and all other responsibilities that the Legislature or the  
1577 executive director may assign to the division;

1578 (2) establish standards for all contract providers of out-of-home care for children and  
1579 families;

1580 (3) cooperate with the federal government in the administration of child welfare, youth  
1581 services, and domestic violence programs and other human service activities assigned by the  
1582 department;

1583 (4) provide for the compilation of relevant information, statistics, and reports on child and  
1584 family service matters in the state;

1585 (5) prepare and submit to the department, the governor, and the Legislature reports of the  
1586 operation and administration of the division in accordance with the requirements of Sections  
1587 62A-4a-117 and 62A-4a-118;

1588 (6) promote and enforce state and federal laws enacted for the protection of abused,  
1589 neglected, dependent, delinquent, ungovernable, and runaway children, and status offenders, in  
1590 accordance with the requirements of this chapter, unless administration is expressly vested in  
1591 another division or department of the state. In carrying out the provisions of this subsection, the  
1592 division shall cooperate with the juvenile courts, the Division of Youth Corrections, and with all  
1593 public and private licensed child welfare agencies and institutions to develop and administer a  
1594 broad range of services and supports. The division shall take the initiative in all matters involving  
1595 the protection of abused or neglected children if adequate provisions have not been made or are  
1596 not likely to be made, and shall make expenditures necessary for the care and protection of those  
1597 children, within the division's budget;

1598 (7) provide substitute care for dependent, abused, neglected, and delinquent children,  
1599 establish standards for substitute care facilities, and approve those facilities;

1600 (8) provide financial support to persons adopting [~~physically handicapped, mentally~~  
1601 ~~handicapped,~~] a child or children with a physical or mental disability, or older, or other  
1602 hard-to-place children who, immediately prior to adoption, were legal wards of the state. The  
1603 financial support provided under this Subsection (8) may not exceed the amounts the division  
1604 would provide for the child as a legal ward of the state;

1605 (9) cooperate with the Division of Employment Development in the Department of  
1606 Workforce Services in meeting social and economic needs of individuals eligible for public

- 1607 assistance;
- 1608 (10) conduct court-ordered home evaluations for the district and juvenile courts with  
1609 regard to child custody issues. The court shall order either or both parties to reimburse the division  
1610 for the cost of that evaluation, in accordance with the community rate for that service or with the  
1611 department's fee schedule rate;
- 1612 (11) provide noncustodial and in-home preventive services, designed to prevent family  
1613 breakup, family preservation services, and reunification services to families whose children are in  
1614 substitute care in accordance with the requirements of this chapter and Title 78, Chapter 3a,  
1615 Juvenile Courts;
- 1616 (12) provide protective supervision of a family, upon court order, in an effort to eliminate  
1617 abuse or neglect of a child in that family;
- 1618 (13) establish programs pursuant to Section 62A-4a-250, and provide services to runaway  
1619 and ungovernable children and their families;
- 1620 (14) provide shelter care in accordance with the requirements of this chapter and Title 78,  
1621 Chapter 3a, Juvenile Courts;
- 1622 (15) provide social studies and reports for the juvenile court in accordance with Section  
1623 78-3a-505;
- 1624 (16) arrange for and provide training for staff and providers involved in the administration  
1625 and delivery of services offered by the division in accordance with this chapter;
- 1626 (17) provide domestic violence services in accordance with the requirements of federal  
1627 law, and establish standards for all direct or contract providers of domestic violence services.  
1628 Within appropriations from the Legislature, the division shall provide or contract for a variety of  
1629 domestic violence services and treatment methods;
- 1630 (18) ensure regular, periodic publication, including electronic publication, regarding the  
1631 number of children in the custody of the division who have a permanency goal of adoption, or for  
1632 whom a final plan of termination of parental rights has been approved, pursuant to Section  
1633 78-3a-312, and promote adoption of those children;
- 1634 (19) provide protective services to victims of domestic violence, as defined in Section  
1635 77-36-1, and their children, in accordance with the provisions of this chapter and of Title 78,  
1636 Chapter 3a, Part 3, Abuse, Neglect, and Dependency Proceedings;
- 1637 (20) have authority to contract with a private, nonprofit organization to recruit and train

1638 foster care families and child welfare volunteers in accordance with Section 62A-4a-107.5; and  
1639 (21) perform [~~such~~] other duties and functions as required by law.

1640 Section 39. Section **63B-5-201** is amended to read:

1641 **63B-5-201. Legislative intent statements.**

1642 (1) If the United State Department of Defense has not provided matching funds to  
1643 construct the National Guard Armory in Orem by December 31, 1997, the Division of Facilities  
1644 Construction and Management shall transfer any funds received from issuance of a General  
1645 Obligation Bond for benefit of the Orem Armory to the Provo Armory for capital improvements.

1646 (2) It is the intent of the Legislature that the University of Utah use institutional funds to  
1647 plan, design, and construct:

1648 (a) the Health Science East parking structure under the supervision of the director of the  
1649 Division of Facilities Construction and Management unless supervisory authority is delegated by  
1650 the director;

1651 (b) the Health Science Office Building under the supervision of the director of the Division  
1652 of Facilities Construction and Management unless supervisory authority is delegated by the  
1653 director; and

1654 (c) the new Student Housing/Olympic Athletes Village under the supervision of the  
1655 director of the Division of Facilities Construction and Management unless supervisory authority  
1656 is delegated by the director.

1657 (3) It is the intent of the Legislature that Utah State University use institutional funds to  
1658 plan, design, and construct a multipurpose facility under the supervision of the director of the  
1659 Division of Facilities Construction and Management unless supervisory authority is delegated by  
1660 the director.

1661 (4) It is the intent of the Legislature that the Utah Geologic Survey use agency internal  
1662 funding to plan, design, and construct a sample library facility under the supervision of the director  
1663 of the Division of Facilities Construction and Management unless supervisory authority is  
1664 delegated by the director.

1665 (5) (a) If legislation introduced in the 1996 General Session to fund the Wasatch State Park  
1666 Club House does not pass, the State Building Ownership Authority, under authority of Title 63,  
1667 Chapter 9a, State Building Ownership [~~Authority~~] Act, may issue or execute obligations, or enter  
1668 into or arrange for a lease purchase agreement in which participation interests may be created, to

1669 provide up to \$1,500,000 for the remodel and expansion of the clubhouse at Wasatch Mountain  
1670 State Park for the Division of Parks and Recreation, together with additional amounts necessary  
1671 to:

- 1672 (i) pay costs of issuance;
- 1673 (ii) pay capitalized interest; and
- 1674 (iii) fund any debt service reserve requirements.

1675 (b) The State Building Ownership Authority shall work cooperatively with the Division  
1676 of Parks and Recreation to seek out the most cost effective and prudent lease purchase plan  
1677 available.

1678 (6) (a) The State Building Ownership Authority, under authority of Title 63, Chapter 9a,  
1679 State Building Ownership [Authority] Act, may issue or execute obligations, or enter into or  
1680 arrange for a lease purchase agreement in which participation interests may be created, to provide  
1681 up to \$835,300 for the construction of a liquor store in the Snyderville area, together with  
1682 additional amounts necessary to:

- 1683 (i) pay costs of issuance;
- 1684 (ii) pay capitalized interest; and
- 1685 (iii) fund any debt service reserve requirements.

1686 (b) The State Building Ownership Authority shall work cooperatively with the Department  
1687 of Alcoholic Beverage Control to seek out the most cost effective and prudent lease purchase plan  
1688 available.

1689 (7) (a) The State Building Ownership Authority, under authority of Title 63, Chapter 9a,  
1690 State Building Ownership [Authority] Act, may issue or execute obligations, or enter into or  
1691 arrange for a lease purchase agreement in which participation interests may be created, to provide  
1692 up to \$15,000,000 for the construction of the Huntsman Cancer Institute, together with additional  
1693 amounts necessary to:

- 1694 (i) pay costs of issuance;
- 1695 (ii) pay capitalized interest; and
- 1696 (iii) fund any debt service reserve requirements.

1697 (b) The State Building Ownership Authority shall work cooperatively with the University  
1698 of Utah to seek out the most cost effective and prudent lease purchase plan available.

1699 (c) It is the intent of the Legislature that the University of Utah lease land to the State

1700 Building Ownership Authority for the construction of the Huntsman Cancer Institute facility.

1701 (8) (a) The State Building Ownership Authority, under authority of Title 63, Chapter 9a,  
1702 State Building Ownership [Authority] Act, may issue or execute obligations, or enter into or  
1703 arrange for a lease purchase agreement in which participation interests may be created, to provide  
1704 up to \$857,600 for the construction of an addition to the Human Services facility in Vernal, Utah  
1705 together with additional amounts necessary to:

- 1706 (i) pay costs of issuance;
- 1707 (ii) pay capitalized interest; and
- 1708 (iii) fund any debt service reserve requirements.

1709 (b) The State Building Ownership Authority shall work cooperatively with the Department  
1710 of Human Services to seek out the most cost effective and prudent lease purchase plan available.

1711 (9) (a) The State Building Ownership Authority, under authority of Title 63, Chapter 9a,  
1712 State Building Ownership [Authority] Act, may issue or execute obligations, or enter into or  
1713 arrange for a lease purchase agreement in which participation interests may be created, to provide  
1714 up to \$3,470,200 for the construction of the Student Services Center, at the College of Eastern  
1715 Utah, together with additional amounts necessary to:

- 1716 (i) pay costs of issuance;
- 1717 (ii) pay capitalized interest; and
- 1718 (iii) fund any debt service reserve requirements.

1719 (b) The State Building Ownership Authority shall work cooperatively with the College of  
1720 Eastern Utah to seek out the most cost effective and prudent lease purchase plan available.

1721 (10) (a) Notwithstanding anything to the contrary in Title 53B, Chapter 21, Revenue  
1722 Bonds, which prohibits the issuance of revenue bonds payable from legislative appropriations, the  
1723 State Board of Regents, on behalf of Dixie College, may issue, sell, and deliver revenue bonds or  
1724 other evidences of indebtedness of Dixie College to borrow money on the credit of the income and  
1725 revenues, including legislative appropriations, of Dixie College, to finance the acquisition of the  
1726 Dixie Center.

1727 (b) (i) The bonds or other evidences of indebtedness authorized by this section shall be  
1728 issued in accordance with Title 53B, Chapter 21, Revenue Bonds, under terms and conditions and  
1729 in amounts that the board, by resolution, determines are reasonable and necessary and may not  
1730 exceed \$6,000,000 together with additional amounts necessary to:



1731 (A) pay cost of issuance;

1732 (B) pay capitalized interest; and

1733 (C) fund any debt service reserve requirements.

1734 (ii) To the extent that future legislative appropriations will be required to provide for  
1735 payment of debt service in full, the board shall ensure that the revenue bonds are issued containing  
1736 a clause that provides for payment from future legislative appropriations that are legally available  
1737 for that purpose.

1738 (11) (a) The State Building Ownership Authority, under authority of Title 63, Chapter 9a,  
1739 State Building Ownership [Authority] Act, may issue or execute obligations, or enter into or  
1740 arrange for a lease purchase agreement in which participation interests may be created, to provide  
1741 up to \$10,479,000 for the construction of a facility for the Courts - Davis County Regional  
1742 Expansion, together with additional amounts necessary to:

1743 (i) pay costs of issuance;

1744 (ii) pay capitalized interest; and

1745 (iii) fund any debt service reserve requirements.

1746 (b) The State Building Ownership Authority shall work cooperatively with the Office of  
1747 the Court Administrator to seek out the most cost effective and prudent lease purchase plan  
1748 available.

1749 (12) (a) The State Building Ownership Authority, under authority of Title 63, Chapter 9a,  
1750 State Building Ownership [Authority] Act, may issue or execute obligations, or enter into or  
1751 arrange for a lease purchase agreement in which participation interests may be created, to provide  
1752 up to \$4,200,000 for the purchase and remodel of the Washington County Courthouse, together  
1753 with additional amounts necessary to:

1754 (i) pay costs of issuance;

1755 (ii) pay capitalized interest; and

1756 (iii) fund any debt service reserve requirements.

1757 (b) The State Building Ownership Authority shall work cooperatively with the Office of  
1758 the Court Administrator to seek out the most cost effective and prudent lease purchase plan  
1759 available.

1760 (13) (a) The State Building Ownership Authority, under authority of Title 63, Chapter 9a,  
1761 State Building Ownership [Authority] Act, may issue or execute obligations, or enter into or

1762 arrange for a lease purchase agreement in which participation interests may be created, to provide  
1763 up to \$14,299,700 for the construction of a facility for the State Library and the Division of  
1764 Services for the Blind and Visually [Handicapped] Impaired, together with additional amounts  
1765 necessary to:

- 1766 (i) pay costs of issuance;
- 1767 (ii) pay capitalized interest; and
- 1768 (iii) fund any debt service reserve requirements.

1769 (b) The State Building Ownership Authority shall work cooperatively with the Office of  
1770 Education and the Department of Community and Economic Development to seek out the most  
1771 cost effective and prudent lease purchase plan available.

1772 Section 40. Section **75-5-316** is amended to read:

1773 **75-5-316. Expedited guardianship proceedings.**

1774 (1) (a) With regard to persons who are residents of the Utah State Developmental Center,  
1775 the expedited process provided by this section may be applied to obtain a limited guardianship.

1776 (b) For purposes of this section:

1777 (i) "Limited guardianship" means a guardianship solely for the purpose of granting consent  
1778 for medical care and for participation in approval of the ward's individualized program plan.

1779 (ii) "Ward" means a resident of the Utah State Developmental Center who is the subject  
1780 of guardianship proceedings under this section.

1781 (2) Any person interested in the incapacitated person's welfare may file a petition for a  
1782 finding of incapacity and appointment of a guardian. That person may seek the limited  
1783 guardianship pro se, using the forms described in this section. Any fee for filing a petition for a  
1784 limited guardianship shall be waived if the guardian is proceeding under this section.

1785 (3) Upon filing a petition for limited guardianship under this section, the court shall set  
1786 a date for hearing.

1787 (4) The ward has the right to be present at the hearing and to see and hear all evidence  
1788 relating to his condition.

1789 (5) At that hearing the court shall review the affidavit of the superintendent of the Utah  
1790 State Developmental Center, described in Subsection (11), and determine whether notice has been  
1791 given to the appropriate persons described in Subsection (6).

1792 (6) If the proposed guardian is not a parent or relative of the ward, personal notice shall

1793 be given to the ward's spouse, parents, and any adult children of the ward. Personal notice shall  
1794 also be given to [~~such~~] other persons as the court may direct.

1795 (7) The court may, in its discretion, appoint a guardian ad litem to represent the ward in  
1796 the hearing, and may request independent evaluation by a physician appointed by the court. The  
1797 physician shall submit his findings to the court in writing.

1798 (8) The court may grant the petition for a limited guardianship and sign the Order of  
1799 Appointment if the court finds that:

1800 (a) the appropriate parties have been given notice;

1801 (b) the ward is incapacitated, based on the affidavit of the superintendent of the Utah State  
1802 Developmental Center and any affidavit or testimony of persons entitled to receive notice or  
1803 requested to present evidence under this section; and

1804 (c) it is necessary and desirable to establish the guardianship.

1805 (9) Venue for these expedited guardianship proceedings shall be the same as that described  
1806 in Section 75-5-302.

1807 (10) A petition for a limited guardianship shall include the following information:

1808 (a) the interest of the petitioner;

1809 (b) the name, age, residence, and address of the ward;

1810 (c) verification that the ward is a resident of the Utah State Developmental Center;

1811 (d) the name and address of the nearest relative of the ward; and

1812 (e) the reason for appointment of guardianship.

1813 (11) The petitioner shall also provide the court with an affidavit of the superintendent of  
1814 the Utah State Developmental Center that includes the following information:

1815 (a) that the ward is a resident of the Utah State Developmental Center;

1816 (b) the date [~~on which~~] the ward was originally admitted to the Utah State Developmental  
1817 Center;

1818 (c) the diagnosis of the ward, including a description of [~~his handicapping~~] the ward's  
1819 disabling condition, the level of retardation, and any medical or physical conditions;

1820 (d) that the Utah State Developmental Center is certified as an Intermediate Care Facility  
1821 for the Mentally Retarded under Title XIX of the Social Security Act;

1822 (e) that because of that certification, the Utah State Developmental Center receives

1823 financial participation from the United States Government for its operation and maintenance costs;

1824 and

1825 (f) that federal regulations under Title XIX require the ward to have a guardian appointed  
1826 for the sole purpose of giving consent for medical and dental care and of participation in and  
1827 approval of the ward's individual program plan.

1828 (12) If the court finds that, under the requirements of this section the proposed limited  
1829 guardian should be appointed, it shall enter an order establishing that limited guardianship in  
1830 substantially the following form:

1831 The court finds that:

1832 (a) appointment of a limited guardianship for (named ward) is necessary and desirable as  
1833 a means of providing continuing care and supervision and to ensure his welfare;

1834 (b) the ward is incapacitated;

1835 (c) (named guardian) is appointed as the limited guardian of (named ward); and

1836 (d) the guardianship is a limited guardianship solely for the purpose of:

1837 (i) granting permission for medical and dental care on behalf of the ward; and

1838 (ii) participation in the development and approval of the ward's individual program plan.

1839 (13) Appointment of guardianship under this section places no additional responsibility  
1840 or liability on the guardian with regard to the ward. The limited guardianship is solely for consent  
1841 for medical care and approval of the ward's individualized program plan, and shall not be  
1842 construed to increase or create liability or responsibility for the guardian.

1843 Section 41. Section **78-11-23** is amended to read:

1844 **78-11-23. Right to life -- State policy.**

1845 The Legislature finds and declares that it is the public policy of this state to encourage all  
1846 persons to respect the right to life of all other persons, regardless of age, development, condition  
1847 or dependency, including all ~~handicapped~~ persons with a disability and all unborn persons.