

**FEES RECODIFICATION**

2001 GENERAL SESSION

STATE OF UTAH

**Sponsor: Neil A. Hansen**

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**This act modifies the Fees Title. This act renumbers and amends sections related to fees and makes technical corrections.**

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

AMENDS:

- 10-3-703.5**, as enacted by Chapter 323, Laws of Utah 2000
- 17-25a-4**, as enacted by Chapter 44, Laws of Utah 1990
- 34A-6-301**, as renumbered and amended by Chapter 375, Laws of Utah 1997
- 35A-3-114**, as last amended by Chapter 133, Laws of Utah 2000
- 41-6-44.10**, as last amended by Chapters 89 and 334, Laws of Utah 2000
- 53-3-223**, as last amended by Chapter 334, Laws of Utah 2000
- 63-55-235**, as last amended by Chapter 133, Laws of Utah 2000
- 63-63a-8**, as last amended by Chapter 133, Laws of Utah 2000
- 70A-9-403 (Repealed 07/01/01)**, as last amended by Chapter 133, Laws of Utah 2000
- 70A-9-404 (Repealed 07/01/01)**, as last amended by Chapter 133, Laws of Utah 2000
- 70A-9a-525 (Effective 07/01/01)**, as enacted by Chapter 252, Laws of Utah 2000
- 77-18-10**, as last amended by Chapter 170, Laws of Utah 1998
- 78-6-14**, as last amended by Chapter 215, Laws of Utah 1997
- 78-28-1**, as last amended by Chapter 112, Laws of Utah 2000
- 78-31b-9**, as last amended by Chapter 215, Laws of Utah 1997
- 78-46-1**, as last amended by Chapter 21, Laws of Utah 1999
- 78-56-108**, as last amended by Chapter 149, Laws of Utah 2000

RENUMBERS AND AMENDS:

**13-1a-9 (Effective 04/30/01)**, (Renumbered from 21-1-2.5 (Effective 04/30/01), as last amended by Chapter 300, Laws of Utah 2000)

**13-1a-9 (Superseded 04/30/01)**, (Renumbered from 21-1-2.5 (Superseded 04/30/01), as last amended by Chapter 313, Laws of Utah 1994)

**17-16-21**, (Renumbered from 21-2-8, as renumbered and amended by Chapter 133, Laws of Utah 2000)

**17-21-18.5**, (Renumbered from 21-2-3, as last amended by Chapter 79, Laws of Utah 1996)

**17-22-2.5**, (Renumbered from 21-2-4, as last amended by Chapter 167, Laws of Utah 1991)

**17-25-2**, (Renumbered from 21-3-3, as last amended by Chapter 44, Laws of Utah 1990)

**17-25-3**, (Renumbered from 21-3-3.5, as last amended by Chapter 44, Laws of Utah 1990)

**17-25-4**, (Renumbered from 21-3-4, as last amended by Chapters 38 and 227, Laws of Utah 1993)

**17-25-5**, (Renumbered from 21-3-5, as last amended by Chapter 198, Laws of Utah 1996)

**63-38-3.3**, (Renumbered from 21-7-2, as last amended by Chapter 181, Laws of Utah 1991)

**67-1a-2.5 (Effective 04/30/01)**, (Renumbered from 21-1-2 (Effective 04/30/01), as last amended by Chapter 300, Laws of Utah 2000)

**67-1a-2.5 (Superseded 04/30/01)**, (Renumbered from 21-1-2 (Superseded 04/30/01), as last amended by Chapter 313, Laws of Utah 1994)

**67-3-1.5**, (Renumbered from 21-1-3, Utah Code Annotated 1953)

**78-5-135.5**, (Renumbered from 21-7-19, as last amended by Chapter 59, Laws of Utah 1990)

**78-7-35**, (Renumbered from 21-1-5, as last amended by Chapters 149 and 323, Laws of Utah 2000)

**78-7-35.1**, (Renumbered from 21-1-4, as last amended by Chapter 176, Laws of Utah 1998)

**78-7-36**, (Renumbered from 21-7-3, as last amended by Chapter 161, Laws of Utah 1996)

**78-7-37**, (Renumbered from 21-7-4, as last amended by Chapter 161, Laws of Utah 1996)

**78-7-38**, (Renumbered from 21-7-4.5, as last amended by Chapter 147, Laws of Utah 1998)

**78-7-39**, (Renumbered from 21-7-4.6, as last amended by Chapter 147, Laws of Utah 1998)

**78-7-40**, (Renumbered from 21-7-4.7, as last amended by Chapter 147, Laws of Utah 1998)

**78-7-41**, (Renumbered from 21-7-5, as last amended by Chapter 59, Laws of Utah 1990)  
**78-7-42**, (Renumbered from 21-7-6, as last amended by Chapter 59, Laws of Utah 1990)  
**78-7-43**, (Renumbered from 21-7-7, Utah Code Annotated 1953)  
**78-7-44**, (Renumbered from 21-7-20, as enacted by Chapter 14, Laws of Utah 1996)  
**78-46-24**, (Renumbered from 21-5-1, as repealed and reenacted by Chapter 219, Laws of Utah 1992)  
**78-46-25**, (Renumbered from 21-5-1.5, as last amended by Chapter 38, Laws of Utah 1993)  
**78-46-26**, (Renumbered from 21-5-2, Utah Code Annotated 1953)  
**78-46-27**, (Renumbered from 21-5-3, Utah Code Annotated 1953)  
**78-46-28**, (Renumbered from 21-5-4, as last amended by Chapter 74, Laws of Utah 1998)  
**78-46-29**, (Renumbered from 21-5-4.5, as last amended by Chapter 219, Laws of Utah 1992)  
**78-46-30**, (Renumbered from 21-5-8, as last amended by Chapter 153, Laws of Utah 1989)  
**78-46-31**, (Renumbered from 21-5-11, as last amended by Chapter 227, Laws of Utah 1993)  
**78-46-32**, (Renumbered from 21-5-14, as last amended by Chapter 153, Laws of Utah 1989)  
**78-46-33**, (Renumbered from 21-5-14.5, as last amended by Chapter 219, Laws of Utah 1992)  
**78-46-34**, (Renumbered from 21-5-15, as last amended by Chapter 159, Laws of Utah 1993)  
**78-46-35**, (Renumbered from 21-5-16, Utah Code Annotated 1953)  
**78-46-36**, (Renumbered from 21-5-17, as last amended by Chapter 40, Laws of Utah 1967)  
**78-46-37**, (Renumbered from 21-5-18, as last amended by Chapter 153, Laws of Utah 1989)  
**78-46-38**, (Renumbered from 21-6-5, as last amended by Chapter 90, Laws of Utah 1981)  
**78-46-39**, (Renumbered from 21-7-16, as last amended by Chapter 198, Laws of Utah 1996)  
**78-46-40**, (Renumbered from 21-7-17, Utah Code Annotated 1953)  
**78-46-41**, (Renumbered from 21-7-18, Utah Code Annotated 1953)

**REPEALS:**

**21-1-1**, Utah Code Annotated 1953  
**21-6-1**, Utah Code Annotated 1953  
**21-6-2**, Utah Code Annotated 1953

**21-6-3**, as last amended by Chapter 75, Laws of Utah 2000

**21-6-6**, Utah Code Annotated 1953

**21-6-7**, Utah Code Annotated 1953

**21-7-1**, Utah Code Annotated 1953

**21-7-9**, Utah Code Annotated 1953

**21-7-10**, Utah Code Annotated 1953

**21-7-11**, Utah Code Annotated 1953

**21-7-12**, Utah Code Annotated 1953

**21-7-13**, Utah Code Annotated 1953

**21-7-14**, as last amended by Chapter 227, Laws of Utah 1993

**21-7-15**, Utah Code Annotated 1953

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

Section 1. Section **10-3-703.5** is amended to read:

**10-3-703.5. Civil penalty for violation of municipal ordinance -- Administrative traffic proceedings -- Appeals.**

(1) As used in this section, "municipality" means a municipality of the first class, as defined in Section 10-2-301, that had ordinances in effect on or before January 1, 2000 that provide a civil penalty for and administrative adjudication of moving traffic violations.

(2) (a) A municipality may, by ordinance, impose a civil penalty and provide adjudication for a violation of a municipal moving traffic ordinance, including regulations described in Section 41-6-17, through an administrative traffic proceeding.

(b) The default civil penalty for a municipal traffic ordinance shall be consistent with the uniform bail schedule adopted by the Judicial Council.

(c) A civil traffic violation constitutes a public offense for purposes of Section 77-7-15 and may be enforced as provided in that section.

(3) An administrative traffic proceeding:

(a) shall, except as provided in this section, be conducted in accordance with Section 10-3-703.7; and

(b) may not be held for:

(i) a moving violation that would be a class B misdemeanor in a criminal proceeding;

(ii) a violation of Title 41, Chapter 6, Article 5, Driving While Intoxicated and Reckless

Driving; or

(iii) a traffic violation that occurs in conjunction with another criminal violation as part of a single criminal episode that will be prosecuted in a criminal proceeding.

(4) If a final administrative determination in an administrative traffic proceeding is for a violation:

(a) the civil penalty is subject to the fees or surcharges established in Subsections ~~[21-1-5]~~ 78-7-35(2)(d)(ii) and 63-63a-1(1)(b)(ii);

(b) the final administrative determination constitutes a conviction as defined in Section 53-3-102; and

(c) the final administrative determination may be appealed by a party in accordance with Section 10-3-703.7.

(5) (a) A municipality that has a population greater than 150,000, according to the last official federal census, shall remit to the state by June 30 of each fiscal year:

(i) \$504,700 for fiscal year 2000-01; and

(ii) \$580,400 for fiscal year 2001-02.

(b) A municipality that has a population less than 150,000, according to the last official federal census, shall remit to the state by June 30 of each fiscal year:

(i) \$388,600 for fiscal year 2000-01; and

(ii) \$446,900 for fiscal year 2001-02.

(c) If a municipality repeals the ordinance described in Subsection (2)(a) prior to the end of a fiscal year, the municipality shall remit to the state the amount described in Subsection (5)(a) or (b) prorated according to the date the ordinance is repealed.

(d) Monies remitted to the state under this Subsection (5) shall be remitted to the state treasurer and deposited in the state General Fund.

Section 2. Section **13-1a-9 (Effective 04/30/01)**, which is renumbered from Section 21-1-2.5

(Effective 04/30/01) is renumbered and amended to read:

**~~[21-1-2.5 (Effective 04/30/01)].~~     13-1a-9 (Effective 04/30/01). Fees of Division of Corporations and Commercial Code.**

In addition to the fees prescribed by Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, and Title 16, Chapter 10a, Utah Revised Business Corporation Act, the Division of Corporations and Commercial Code shall receive and determine fees pursuant to Section 63-38-3.2 for filing articles of incorporation or amendments of insurance corporations, of canal or irrigation corporations organized for furnishing water to lands owned by the members thereof exclusively, or of water users' associations organized in conformity with the requirements of the United States under the Reclamation Act of June 17, 1902, and which are authorized to furnish water only to their stockholders. No license fee may be imposed on insurance corporations, canal or irrigation corporations organized for furnishing water to lands owned by the members thereof exclusively, or water users' associations organized in conformity with the requirements of the United States under the Reclamation Act of June 17, 1902, and which are authorized to furnish water only to the stockholders at the time any such corporation files its articles of incorporation, articles of amendment increasing the number of authorized shares, or articles of merger or consolidation, any provision of Title 16, Chapter 10a, Utah Revised Business Corporation Act, to the contrary notwithstanding.

Section 3. Section **13-1a-9 (Superseded 04/30/01)**, which is renumbered from Section 21-1-2.5 (Superseded 04/30/01) is renumbered and amended to read:

**~~[21-1-2.5 (Superseded 04/30/01)].~~     13-1a-9 (Superseded 04/30/01). Fees of Division of Corporations and Commercial Code.**

In addition to the fees prescribed by Title 16, Chapter 10a, Utah Revised Business Corporation Act, and Title 16, Chapter 6, Utah Nonprofit Corporation and Cooperative Association Act, the Division of Corporations and Commercial Code shall receive and determine fees pursuant to Section 63-38-3.2 for filing articles of incorporation or amendments of insurance corporations, of canal or irrigation corporations organized for furnishing water to lands owned by the members thereof exclusively, or of water users' associations organized in conformity with the requirements

of the United States under the Reclamation Act of June 17, 1902, and which are authorized to furnish water only to their stockholders. No license fee may be imposed on insurance corporations, canal or irrigation corporations organized for furnishing water to lands owned by the members thereof exclusively, or water users' associations organized in conformity with the requirements of the United States under the Reclamation Act of June 17, 1902, and which are authorized to furnish water only to the stockholders at the time any such corporation files its articles of incorporation, articles of amendment increasing the number of authorized shares, or articles of merger or consolidation, any provision of Title 16, Chapter 10a, Utah Revised Business Corporation Act, to the contrary notwithstanding.

Section 4. Section **17-16-21**, which is renumbered from Section 21-2-8 is renumbered and amended to read:

**~~21-2-8~~. 17-16-21. Fees of county officers.**

(1) As used in this section, "county officer" means all of the county officers enumerated in Section 17-53-101 except county recorders, county constables, and county sheriffs.

(2) (a) Each county officer shall collect, in advance, for exclusive county use and benefit:

- (i) all fees established by the county legislative body under this section; and
- (ii) any other fees authorized or required by law.

(b) As long as the displaced homemaker program is authorized by Section 35A-3-114, the county clerk shall:

(i) assess \$20 in addition to whatever fee for a marriage license is established under authority of this section; and

(ii) transmit \$20 from each marriage license fee to the Division of Finance to be credited to the displaced homemaker program.

(c) As long as the Children's Legal Defense Account is authorized by Section 63-63a-8, the county clerk shall:

(i) assess \$10 in addition to whatever fee for a marriage license is established under authority of this section and in addition to the \$20 assessed for the displaced homemaker program; and

(ii) transmit \$10 from each marriage license fee to the Division of Finance for deposit in the

Children's Legal Defense Account.

(3) This section does not apply to any fees currently being assessed by the state but collected by county officers.

Section 5. Section **17-21-18.5**, which is renumbered from Section 21-2-3 is renumbered and amended to read:

**[~~21-2-3~~].      17-21-18.5. Fees of county recorder.**

(1) The county recorder shall receive the following fees:

(a) for receiving, entering, and filing any instrument, paper, or notice, not otherwise provided for, other than bonds of public officers, \$10;

(b) for recording any instrument, paper, or notice, including those provided for under Title 70A, Uniform Commercial Code, other than bonds of public officers, and not otherwise provided for, \$10 for the first page, if the page is not larger than 8 1/2 inches x 14 inches in size, and \$2 for each additional page, and if any instrument, paper, or notice contains more than one description, \$1 for each additional description;

(c) for recording any instrument in which a right-of-way is described, which is connected with or is appurtenant to any tract of land described in the instrument, \$1, but if the instrument contains a description of more than one right-of-way, \$1 for each additional right-of-way, and if any instrument contains more than two names for either first or second party, or plaintiffs or defendants, for each additional name, \$1;

(d) for recording, indexing, and abstracting mining location notices, and recording, indexing, and abstracting affidavits of labor affecting mining claims, \$10 for the first page if that page is not larger than 8 1/2 inches by 14 inches in size, and \$2 for each additional page; and

(e) for a location notice, affidavit, or proof of labor which contains names of more than two signers, \$1 for each additional name, and for an affidavit or proof of labor which contains more than one mining claim, \$1 for each additional mining claim.

(2) (a) Each county recorder shall record the mining rules of the several mining districts in each county without fee.

(b) Certified copies of these records shall be received in all tribunals and before all officers

of this state as prima facie evidence of the rules.

(3) The county recorder shall receive the following fees:

(a) for copies of any record or paper, a reasonable fee determined and set by the county legislative body;

(b) for each certificate under seal, \$2;

(c) for recording any plat of a subdivision into lots and blocks, \$1 for each lot, and \$30 for each sheet;

(d) for recording any other plat or map, \$30 for each sheet and \$1 for each lot or unit designation;

(e) for taking and certifying acknowledgments, including seal, \$5 for one name and \$2 for each additional name;

(f) for recording any license issued by the Division of Occupational and Professional Licensing, \$10;

(g) for filing of federal tax lien, \$10, and for the discharge of the lien, \$10;

(h) for copies of microfilm, a charge per lineal foot as fixed by the county governing body, not to exceed the cost of reproduction of the film plus 10%; and

(i) for all services not enumerated in this section, a reasonable compensation.

Section 6. Section **17-22-2.5**, which is renumbered from Section 21-2-4 is renumbered and amended to read:

**[21-2-4].      17-22-2.5. Fees of sheriff.**

(1) The sheriff shall receive the following fees:

(a) for serving a notice, rule, order, subpoena, garnishment, summons, or summons and complaint, or garnishee execution, or other process by which an action or proceeding is commenced, on each defendant, including copies when furnished by plaintiff, \$6;

(b) for taking or approving a bond or undertaking in any case in which he is authorized to take or approve a bond or undertaking, including justification, \$2;

(c) for a copy of any writ, process or other paper when demanded or required by law, for each folio, 50 cents;

(d) for serving an attachment on property, or levying an execution, or executing an order of arrest or an order for the delivery of personal property, including copies when furnished by plaintiff, \$25;

(e) for taking and keeping possession of and preserving property under attachment or execution or other process, the amount the court orders to a maximum of \$5 per day;

(f) for advertising property for sale on execution, or any judgment, or order of sale, exclusive of the cost of publication, \$5;

(g) for drawing and executing a sheriff's deed or a certificate of redemption, exclusive of acknowledgment, \$5, to be paid by the grantee;

(h) for recording each deed, conveyance, or other instrument affecting real estate, exclusive of the cost of recording, \$2, to be paid by the grantee;

(i) for serving a writ of possession or restitution, and putting any person entitled to possession into possession of premises, and removing occupant, \$25;

(j) for holding each trial of right of property, to include all services in the matter, except mileage, \$15;

(k) for conducting, postponing, or canceling a sale of property, \$5;

(l) for taking a prisoner in civil cases from prison before a court or magistrate, for each mile necessarily traveled, in going only, \$1;

(m) for taking a prisoner from the place of arrest to prison, in civil cases, or before a court or magistrate, for each mile necessarily traveled, in going only, \$1;

(n) for receiving and paying over money on execution or other process, as follows:

(i) if the amount collected does not exceed \$1,000, 2% of this amount, with a minimum of \$1; and

(ii) if the amount collected exceeds \$1,000, 2% on the first \$1,000 and 1-1/2% on the balance; and

(o) for executing in duplicate a certificate of sale, exclusive of filing it, \$5.

(2) The fees allowed by Subsection (1)(f) for the levy of execution and for advertising shall be collected from the judgment debtor as part of the execution in the same manner as the sum

directed to be made.

(3) When serving an attachment on property, an order of arrest, or an order for the delivery of personal property, the sheriff may only collect traveling fees for the distance actually traveled beyond the distance required to serve the summons if the attachment or those orders:

- (a) accompany the summons in the action; and
- (b) may be executed at the time of the service of the summons.

(4) (a) (i) When traveling generally to serve notices, orders, process, or other papers, the sheriff may receive \$1 for each mile necessarily traveled, in going only, computed from the courthouse for each person served.

(ii) When transmitting notices, orders, process, or other papers by mail, the sheriff may receive \$1 for each mile necessarily traveled, in going only, computed from the post office where received for each person served.

(b) The sheriff may only charge one mileage fee if any two or more papers are required to be served in the same action or proceeding at the same time and at the same address.

(c) If it is necessary to make more than one trip to serve any notice, order, process, or other paper, the sheriff may not collect more than two additional mileage charges.

(5) (a) For delivering an insane person to the Utah State Hospital, when the cost of delivery is payable by private individuals, the sheriff may collect \$1 per mile for the distance from the county seat of his county to the Utah State Hospital.

(b) If the sheriff requires assistance to deliver the person to the Utah State Hospital, the sheriff may also charge the actual and necessary cost of that assistance.

Section 7. Section **17-25-2**, which is renumbered from Section 21-3-3 is renumbered and amended to read:

**~~[21-3-3]~~. 17-25-2. Fees for constables -- Civil.**

(1) Constables may for their own use collect as compensation in civil matters the same fees as those specified for sheriffs in Section ~~[21-2-4]~~ 17-22-2.5.

(2) Constable fees that exceed the amounts in Section ~~[21-2-4]~~ 17-22-2.5 are recoverable:

- (a) by the constable only if he has received prior approval for the increased fee from the party

requesting the service; and

(b) by prevailing party as a cost of the action only if the court finds the service and increased fee are justifiable.

Section 8. Section **17-25-3**, which is renumbered from Section 21-3-3.5 is renumbered and amended to read:

**[~~21-3-3.5~~]. 17-25-3. Fees for constables -- Criminal.**

(1) (a) In criminal matters constables shall be paid for each copy of a summons, subpoena, notice, court order, or other criminal paper, except a warrant of arrest;

(i) \$5 for each defendant served; and

(ii) mileage of \$1 per mile for each mile necessarily traveled in going only, to be computed from either the courthouse, or when transmitted by mail, from the post office where received.

(b) If more than one trip is necessary to serve, or diligently attempt to serve, service of process, mileage charges for more than two trips may be collected only if the party requesting the service of process has approved the additional mileage charges.

(c) Each charge shall be individually documented on the affidavit of return of service.

(2) Lower charges may be established by contract for services under this ~~[subsection]~~ section.

(3) If a constable serves process in a county other than the county where the process originated, travel expenses may not exceed the fee that would be charged if served by the sheriff of that county.

(4) (a) For each mile traveled for the purpose of serving, or to diligently attempt service of, a warrant of arrest, both in going to and returning from defendant's address, a fee of \$1 may be charged.

(b) If more than one trip is necessary to serve, or diligently attempt to serve, a warrant of arrest, no more than two additional mileage charges may be collected.

(c) Each charge shall be individually documented on the affidavit of return of service.

(5) For arresting each prisoner and bringing him into court, or otherwise satisfying a warrant, a fee of \$15 may be charged.

Section 9. Section **17-25-4**, which is renumbered from Section 21-3-4 is renumbered and amended to read:

**[21-3-4]. 17-25-4. Constables' fees in criminal cases -- Procedure.**

Accounts against the county filed by constables for services in criminal cases shall be certified as correct by the county attorney or district attorney and shall be presented to the auditor. The county legislative body may reject such bills in all causes or proceedings in which the county attorney or district attorney has not in writing authorized the issuance of the warrant of arrest.

Section 10. Section **17-25-5**, which is renumbered from Section 21-3-5 is renumbered and amended to read:

**[21-3-5]. 17-25-5. Contracts for constable services.**

The governing body of any municipality or county where a justice court exists may contract with any one or more of the constables appointed in the county where the court sits to provide services in criminal cases for the contracting governmental entity by any method and for any amount mutually agreed upon.

Section 11. Section **17-25a-4** is amended to read:

**17-25a-4. Rates recoverable -- Exception.**

(1) The rates recoverable through court action for service of process by a constable are governed by Section [~~21-2-4, 21-3-3.5~~] 17-22-2.5, 17-25-3, or [~~21-3-5~~] 17-25-5 when applicable.

(2) Constable fees that exceed the amounts in Section [~~21-2-4~~] 17-22-2.5 are recoverable in court:

(a) by the constable only if he has received prior approval for the increased fee from the party requesting the service; and

(b) by a prevailing party as a cost of the action only if the court finds the service and increased fee are justifiable.

Section 12. Section **34A-6-301** is amended to read:

**34A-6-301. Inspection and investigation of workplace, worker injury, illness, or complaint -- Warrants -- Attendance of witnesses -- Recordkeeping by employers -- Employer and employee representatives -- Request for inspection by employees -- Compilation and**

**publication of reports and information -- Division rules.**

(1) (a) The division or its representatives, upon presenting appropriate credentials to the owner, operator, or agent in charge, may:

(i) enter without delay at reasonable times any workplace where work is performed by an employee of an employer;

(ii) inspect and investigate during regular working hours and at other reasonable times in a reasonable manner, any workplace, worker injury, occupational disease, or complaint and all pertinent methods, operations, processes, conditions, structures, machines, apparatus, devices, equipment, and materials in the workplace; and

(iii) question privately any such employer, owner, operator, agent, or employee.

(b) The division, upon an employer's refusal to permit an inspection, may seek a warrant under Section 77-23-211.

(2) The division or its representatives may require the attendance and testimony of witnesses and the production of evidence under oath. Witnesses shall receive fees and mileage in accordance with Section [~~21-5-4~~] 78-46-28. If any person fails or refuses to obey an order of the division to appear, any district court within the jurisdiction of which such person is found, or resides or transacts business, upon the application by the division, shall have jurisdiction to issue to any person an order requiring that person to appear to produce evidence if, as, and when so ordered, and to give testimony relating to the matter under investigation or in question, and any failure to obey such order of the court may be punished by the court as a contempt.

(3) (a) The commission shall make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, requiring employers to keep records regarding activities related to this chapter considered necessary for enforcement or for the development of information about the causes and prevention of occupational accidents and diseases and requiring employers, through posting of notices or other means, to inform employees of their rights and obligations under this chapter including applicable standards.

(b) The commission shall make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, requiring employers to keep records regarding any work-related

death and injury and any occupational disease as follows:

(i) Each employer shall investigate or cause to be investigated all work-related injuries and occupational diseases and any sudden or unusual occurrence or change of conditions that pose an unsafe or unhealthful exposure to employees.

(ii) Each employer shall, within 12 hours of occurrence, notify the division of any:

(A) work-related fatality;

(B) disabling, serious, or significant injury; and

(C) occupational disease incident.

(iii) (A) Each employer shall file a report with the Division of Industrial Accidents within seven days after the occurrence of an injury or occupational disease, after the employer's first knowledge of the occurrence, or after the employee's notification of the same, in the form prescribed by the Division of Industrial Accidents, of any work-related fatality or any work-related injury or occupational disease resulting in medical treatment, loss of consciousness, loss of work, restriction of work, or transfer to another job.

(B) Each employer shall file a subsequent report with the Division of Industrial Accidents of any previously reported injury or occupational disease that later resulted in death. The subsequent report shall be filed with the Division of Industrial Accidents within seven days following the death or the employer's first knowledge or notification of the death. A report is not required for minor injuries, such as cuts or scratches that require first-aid treatment only, unless a treating physician files, or is required to file, the Physician's Initial Report of Work Injury or Occupational Disease with the Division of Industrial Accidents. A report is not required for occupational diseases that manifest after the employee is no longer employed by the employer with which the exposure occurred, or where the employer is not aware of an exposure occasioned by the employment which results in an occupational disease as defined by Section 34A-3-103.

(iv) Each employer shall provide the employee with:

(A) a copy of the report submitted to the Division of Industrial Accidents;

(B) a statement, as prepared by the Division of Industrial Accidents, of the employee's rights and responsibilities related to the industrial injury or occupational disease.

(v) Each employer shall maintain a record in a manner prescribed by the commission of all work-related fatalities or work-related injuries and of all occupational diseases resulting in:

- (A) medical treatment;
- (B) loss of consciousness;
- (C) loss of work;
- (D) restriction of work; or
- (E) transfer to another job.

(vi) The commission shall make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, to implement Subsection (3)(b) consistent with nationally recognized rules or standards on the reporting and recording of work-related injuries and occupational diseases.

(c) (i) The commission shall make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, requiring employers to keep records regarding exposures to potentially toxic materials or harmful physical agents required to be measured or monitored under Section 34A-6-202.

(ii) The rules made under Subsection (3)(c)(i) shall provide for employees or their representatives to observe the measuring or monitoring and to have access to the records thereof, and to records that indicate their exposure to toxic materials or harmful agents. Each employer shall promptly notify employees being exposed to toxic materials or harmful agents in concentrations that exceed prescribed levels and inform any such employee of the corrective action being taken.

(4) Information obtained by the division shall be obtained with a minimum burden upon employers, especially those operating small businesses.

(5) A representative of the employer and a representative authorized by employees shall be given an opportunity to accompany the division's authorized representative during the physical inspection of any workplace. If there is no authorized employee representative, the division's authorized representative shall consult with a reasonable number of employees concerning matters of health and safety in the workplace.

(6) (a) (i) Any employee or representative of employees who believes that a violation of an

adopted safety or health standard exists that threatens physical harm, or that an imminent danger exists, may request an inspection by giving notice to the division's authorized representative of the violation or danger. The notice shall be in writing, setting forth with reasonable particularity the grounds for notice, and signed by the employee or representative of employees. A copy of the notice shall be provided the employer or the employer's agent no later than at the time of inspection. Upon request of the person giving notice, the person's name and the names of individual employees referred to in the notice shall not appear in the copy or on any record published, released, or made available pursuant to Subsection (7).

(ii) (A) If upon receipt of the notice the division's authorized representative determines there are reasonable grounds to believe that a violation or danger exists, the authorized representative shall make a special inspection in accordance with this section as soon as practicable to determine if a violation or danger exists.

(B) If the division's authorized representative determines there are no reasonable grounds to believe that a violation or danger exists, the authorized representative shall notify the employee or representative of the employees in writing of that determination.

(b) Prior to or during any inspection of a workplace, any employee or representative of employees employed in the workplace may notify the division or its representative of any violation of a standard that they have reason to believe exists in the workplace. The division shall, by rule, establish procedures for informal review of any refusal by a representative of the division to issue a citation with respect to any alleged violation and furnish the employees or representative of employees requesting review a written statement of the reasons for the division's final disposition of the case.

(7) (a) The division may compile, analyze, and publish, either in summary or detailed form, all reports or information obtained under this section, subject to the limitations set forth in Section 34A-6-306.

(b) The commission shall make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, necessary to carry out its responsibilities under this chapter, including rules for information obtained under this section, subject to the limitations set forth in

Section 34A-6-306.

(8) Any employer who refuses or neglects to make reports, to maintain records, or to file reports with the commission as required by this section is guilty of a class C misdemeanor and subject to citation under Section 34A-6-302 and a civil assessment as provided under Section 34A-6-307, unless the commission finds that the employer has shown good cause for submitting a report later than required by this section.

Section 13. Section **35A-3-114** is amended to read:

**35A-3-114. Programs for displaced homemakers.**

(1) For purposes of this section, "displaced homemaker" means an individual:

(a) who has been a homemaker for a period of eight or more years without significant gainful employment outside the home;

(b) whose primary occupation during the period of time described in Subsection (1)(a) was the provision of unpaid household services for family members;

(c) has found it necessary to enter the job market;

(d) is not reasonably capable of obtaining employment sufficient to provide self-support or necessary support for dependents, due to a lack of marketable job skills or other skills necessary for self-sufficiency; and

(e) has depended on:

(i) the income of a family member and lost that income; or

(ii) governmental assistance as the parent of dependent children and is no longer eligible for that assistance.

(2) The department shall establish, in cooperation with state and local governmental agencies, community-based organizations, and private employers, a program for the education, training, and transitional counseling of displaced homemakers, which includes referral services and the following services:

(a) employment and skills training, career counseling, and placement services specifically designed to address the needs of displaced homemakers;

(b) assistance in obtaining access to existing public and private employment training

programs;

(c) educational services, including information on high school or college programs, or assistance in gaining access to existing educational programs;

(d) health education and counseling, or assistance in gaining access to existing health education and counseling services;

(e) financial management services which provide information on insurance, taxes, estate and probate matters, mortgages, loans, and other financial issues; and

(f) prevocational self-esteem and assertiveness training.

(3) The department shall:

(a) (i) contract with existing governmental or private agencies or community-based organizations that have demonstrated effectiveness in serving displaced homemakers to provide a program for displaced homemakers in each county or group of counties, as the population demands; or

(ii) establish a program for displaced homemakers in that area;

(b) coordinate its program for displaced homemakers with existing state or federal programs of a similar nature and, where possible, utilize existing physical resources;

(c) establish rules to implement this section, and may form an advisory committee for recommendations on the establishment and improvement of a program for displaced homemakers;

(d) encourage the placement of displaced homemakers in programs established under:

(i) the Job Training Partnership Act, 29 U.S.C. Section 1501; and

(ii) the Carl D. Perkins Vocational and Applied Technology Education Act, 20 U.S.C.

Section 2301, et seq.; and

(e) prepare an evaluation of its program for displaced homemakers, including the success of placement of displaced homemakers in programs described in this section, and annually submit a written report of that evaluation to the Legislature.

(4) Displaced homemakers may act as peer counselors in programs for displaced homemakers.

(5) (a) Appropriate funds received by the state under Section [~~21-2-8~~] 17-16-21 shall be

deposited as nonlapsing dedicated credits and used for the purposes of this section.

(b) Notwithstanding Subsection (5)(a), if the nonlapsing amount exceeds \$300,000 at the end of any fiscal year, the excess shall lapse into the General Fund.

(6) The department shall establish procedures for payment and repayment, when possible, by clients to the department of the costs of services provided to displaced homemakers under this section.

Section 14. Section **41-6-44.10** is amended to read:

**41-6-44.10. Implied consent to chemical tests for alcohol or drug -- Number of tests -- Refusal -- Warning, report -- Hearing, revocation of license -- Appeal -- Person incapable of refusal -- Results of test available -- Who may give test -- Evidence.**

(1) (a) A person operating a motor vehicle in this state is considered to have given his consent to a chemical test or tests of his breath, blood, or urine for the purpose of determining whether he was operating or in actual physical control of a motor vehicle while having a blood or breath alcohol content statutorily prohibited under Section 41-6-44, 53-3-231, or 53-3-232, while under the influence of alcohol, any drug, or combination of alcohol and any drug under Section 41-6-44, or while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6-44.6, if the test is or tests are administered at the direction of a peace officer having grounds to believe that person to have been operating or in actual physical control of a motor vehicle while having a blood or breath alcohol content statutorily prohibited under Section 41-6-44, 53-3-231, or 53-3-232, or while under the influence of alcohol, any drug, or combination of alcohol and any drug under Section 41-6-44, or while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6-44.6.

(b) (i) The peace officer determines which of the tests are administered and how many of them are administered.

(ii) If an officer requests more than one test, refusal by a person to take one or more requested tests, even though he does submit to any other requested test or tests, is a refusal under this section.

(c) (i) A person who has been requested under this section to submit to a chemical test or tests of his breath, blood, or urine, may not select the test or tests to be administered.

(ii) The failure or inability of a peace officer to arrange for any specific chemical test is not a defense to taking a test requested by a peace officer, and it is not a defense in any criminal, civil, or administrative proceeding resulting from a person's refusal to submit to the requested test or tests.

(2) (a) If the person has been placed under arrest, has then been requested by a peace officer to submit to any one or more of the chemical tests under Subsection (1), and refuses to submit to any chemical test requested, the person shall be warned by the peace officer requesting the test or tests that a refusal to submit to the test or tests can result in revocation of the person's license to operate a motor vehicle.

(b) Following the warning under Subsection (2)(a), if the person does not immediately request that the chemical test or tests as offered by a peace officer be administered a peace officer shall serve on the person, on behalf of the Driver License Division, immediate notice of the Driver License Division's intention to revoke the person's privilege or license to operate a motor vehicle. When the officer serves the immediate notice on behalf of the Driver License Division, he shall:

- (i) take the Utah license certificate or permit, if any, of the operator;
- (ii) issue a temporary license effective for only 29 days; and
- (iii) supply to the operator, on a form approved by the Driver License Division, basic information regarding how to obtain a hearing before the Driver License Division.

(c) A citation issued by a peace officer may, if approved as to form by the Driver License Division, serve also as the temporary license.

(d) As a matter of procedure, the peace officer shall submit a signed report, within ten calendar days after the date of the arrest, that he had grounds to believe the arrested person had been operating or was in actual physical control of a motor vehicle while having a blood or breath alcohol content statutorily prohibited under Section 41-6-44, 53-3-231, or 53-3-232, or while under the influence of alcohol, any drug, or combination of alcohol and any drug under Section 41-6-44, or while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6-44.6, and that the person had refused to submit to a

chemical test or tests under Subsection (1).

(e) (i) A person who has been notified of the Driver License Division's intention to revoke his license under this section is entitled to a hearing.

(ii) A request for the hearing shall be made in writing within ten calendar days after the date of the arrest.

(iii) Upon written request, the division shall grant to the person an opportunity to be heard within 29 days after the date of arrest.

(iv) If the person does not make a timely written request for a hearing before the division, his privilege to operate a motor vehicle in the state is revoked beginning on the 30th day after the date of arrest for a period of:

(A) 18 months unless Subsection (2)(e)(iv)(B) applies; or

(B) 24 months if the person has had a previous license sanction after July 1, 1993, under this section, Section 41-6-44.6, 53-3-223, 53-3-231, 53-3-232, or a conviction after July 1, 1993, under Section 41-6-44.

(f) If a hearing is requested by the person, the hearing shall be conducted by the Driver License Division in the county in which the offense occurred, unless the division and the person both agree that the hearing may be held in some other county.

(g) The hearing shall be documented and shall cover the issues of:

(i) whether a peace officer had reasonable grounds to believe that a person was operating a motor vehicle in violation of Section 41-6-44, 41-6-44.6, or 53-3-231; and

(ii) whether the person refused to submit to the test.

(h) (i) In connection with the hearing, the division or its authorized agent:

(A) may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers; and

(B) shall issue subpoenas for the attendance of necessary peace officers.

(ii) The division shall pay witness fees and mileage from the Transportation Fund in accordance with the rates established in Section [~~21-5-4~~] 78-46-28.

(i) If after a hearing, the Driver License Division determines that the person was requested

to submit to a chemical test or tests and refused to submit to the test or tests, or if the person fails to appear before the Driver License Division as required in the notice, the Driver License Division shall revoke his license or permit to operate a motor vehicle in Utah beginning on the date the hearing is held for a period of:

(i) (A) 18 months unless Subsection (2)(i)(i)(B) applies; or

(B) 24 months if the person has had a previous license sanction after July 1, 1993, under this section, Section 41-6-44.6, 53-3-223, 53-3-231, 53-3-232, or a conviction after July 1, 1993, under Section 41-6-44.

(ii) The Driver License Division shall also assess against the person, in addition to any fee imposed under Subsection 53-3-205(14), a fee under Section 53-3-105, which shall be paid before the person's driving privilege is reinstated, to cover administrative costs.

(iii) The fee shall be cancelled if the person obtains an unappealed court decision following a proceeding allowed under this Subsection (2) that the revocation was improper.

(j) (i) Any person whose license has been revoked by the Driver License Division under this section may seek judicial review.

(ii) Judicial review of an informal adjudicative proceeding is a trial. Venue is in the district court in the county in which the offense occurred.

(3) Any person who is dead, unconscious, or in any other condition rendering him incapable of refusal to submit to any chemical test or tests is considered to not have withdrawn the consent provided for in Subsection (1), and the test or tests may be administered whether the person has been arrested or not.

(4) Upon the request of the person who was tested, the results of the test or tests shall be made available to him.

(5) (a) Only a physician, registered nurse, practical nurse, or person authorized under Section 26-1-30, acting at the request of a peace officer, may withdraw blood to determine the alcoholic or drug content. This limitation does not apply to taking a urine or breath specimen.

(b) Any physician, registered nurse, practical nurse, or person authorized under Section 26-1-30 who, at the direction of a peace officer, draws a sample of blood from any person whom a

peace officer has reason to believe is driving in violation of this chapter, or hospital or medical facility at which the sample is drawn, is immune from any civil or criminal liability arising from drawing the sample, if the test is administered according to standard medical practice.

(6) (a) The person to be tested may, at his own expense, have a physician of his own choice administer a chemical test in addition to the test or tests administered at the direction of a peace officer.

(b) The failure or inability to obtain the additional test does not affect admissibility of the results of the test or tests taken at the direction of a peace officer, or preclude or delay the test or tests to be taken at the direction of a peace officer.

(c) The additional test shall be subsequent to the test or tests administered at the direction of a peace officer.

(7) For the purpose of determining whether to submit to a chemical test or tests, the person to be tested does not have the right to consult an attorney or have an attorney, physician, or other person present as a condition for the taking of any test.

(8) If a person under arrest refuses to submit to a chemical test or tests or any additional test under this section, evidence of any refusal is admissible in any civil or criminal action or proceeding arising out of acts alleged to have been committed while the person was operating or in actual physical control of a motor vehicle while under the influence of alcohol, any drug, combination of alcohol and any drug, or while having any measurable controlled substance or metabolite of a controlled substance in the person's body.

Section 15. Section **53-3-223** is amended to read:

**53-3-223. Chemical test for driving under the influence -- Temporary license -- Hearing and decision -- Suspension and fee -- Judicial review.**

(1) (a) If a peace officer has reasonable grounds to believe that a person may be violating or has violated Section 41-6-44, prohibiting the operation of a vehicle with a certain blood or breath alcohol concentration and driving under the influence of any drug, alcohol, or combination of a drug and alcohol or while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6-44.6, the peace officer may, in connection

with arresting the person, request that the person submit to a chemical test or tests to be administered in compliance with the standards under Section 41-6-44.10.

(b) In this section, a reference to Section 41-6-44 includes any similar local ordinance adopted in compliance with Subsection 41-6-43(1).

(2) The peace officer shall advise a person prior to the person's submission to a chemical test that a test result indicating a violation of Section 41-6-44 or 41-6-44.6 shall, and the existence of a blood alcohol content sufficient to render the person incapable of safely driving a motor vehicle may, result in suspension or revocation of the person's license to drive a motor vehicle.

(3) If the person submits to a chemical test and the test results indicate a blood or breath alcohol content in violation of Section 41-6-44 or 41-6-44.6, or if the officer makes a determination, based on reasonable grounds, that the person is otherwise in violation of Section 41-6-44, the officer directing administration of the test or making the determination shall serve on the person, on behalf of the division, immediate notice of the division's intention to suspend the person's license to drive a motor vehicle.

(4) (a) When the officer serves immediate notice on behalf of the division he shall:

- (i) take the Utah license certificate or permit, if any, of the driver;
- (ii) issue a temporary license certificate effective for only 29 days; and
- (iii) supply to the driver, on a form to be approved by the division, basic information regarding how to obtain a prompt hearing before the division.

(b) A citation issued by the officer may, if approved as to form by the division, serve also as the temporary license certificate.

(5) As a matter of procedure, the peace officer serving the notice shall send to the division within ten calendar days after the date of arrest and service of the notice:

- (a) the person's license certificate;
- (b) a copy of the citation issued for the offense;
- (c) a signed report on a form approved by the division indicating the chemical test results, if any; and
- (d) any other basis for the officer's determination that the person has violated Section

41-6-44 or 41-6-44.6.

(6) (a) Upon written request, the division shall grant to the person an opportunity to be heard within 29 days after the date of arrest. The request to be heard shall be made within ten calendar days of the date of the arrest.

(b) A hearing, if held, shall be before the division in the county in which the arrest occurred, unless the division and the person agree that the hearing may be held in some other county.

(c) The hearing shall be documented and shall cover the issues of:

(i) whether a peace officer had reasonable grounds to believe the person was driving a motor vehicle in violation of Section 41-6-44 or 41-6-44.6;

(ii) whether the person refused to submit to the test; and

(iii) the test results, if any.

(d) (i) In connection with a hearing the division or its authorized agent:

(A) may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers; or

(B) may issue subpoenas for the attendance of necessary peace officers.

(ii) The division shall pay witness fees and mileage from the Transportation Fund in accordance with the rates established in Section [~~21-5-4~~] 78-46-28.

(e) The division may designate one or more employees to conduct the hearing.

(f) Any decision made after a hearing before any designated employee is as valid as if made by the division.

(g) After the hearing, the division shall order whether the person's license to drive a motor vehicle is suspended or not.

(h) If the person for whom the hearing is held fails to appear before the division as required in the notice, the division shall order whether the person's license to drive a motor vehicle is suspended or not.

(7) (a) A first suspension, whether ordered or not challenged under this Subsection (7), is for a period of 90 days, beginning on the 30th day after the date of the arrest.

(b) A second or subsequent suspension under this subsection is for a period of one year,

beginning on the 30th day after the date of arrest.

(8) (a) The division shall assess against a person, in addition to any fee imposed under Subsection 53-3-205(14) for driving under the influence, a fee under Section 53-3-105 to cover administrative costs, which shall be paid before the person's driving privilege is reinstated. This fee shall be cancelled if the person obtains an unappealed division hearing or court decision that the suspension was not proper.

(b) A person whose license has been suspended by the division under this Subsection (8) may file a petition within 30 days after the suspension for a hearing on the matter which, if held, is governed by Section 53-3-224.

Section 16. Section **63-38-3.3**, which is renumbered from Section 21-7-2 is renumbered and amended to read:

~~[21-7-2]~~. **63-38-3.3**. **Payment of fees prerequisite to service -- Exception.**

(1) (a) ~~[The state]~~ State and county officers ~~[mentioned in this title]~~ required by law to charge fees may not perform any official service unless the fees prescribed for that service are paid in advance.

(b) When the fee is paid, the officer shall perform the services required.

(c) An officer is liable upon his official bond for every failure or refusal to perform an official duty when the fees are tendered.

(2) Except as provided for payment of filing fees of county and municipal improvement district filings in compliance with Sections 17A-3-207 and 17A-3-307, no fees may be charged:

(a) to the officer's state, or any county or subdivision of the state;

(b) to any public officer acting for the state, county, or subdivision;

(c) in cases of habeas corpus;

(d) in criminal causes before final judgment;

(e) for administering and certifying the oath of office;

(f) for swearing pensioners and their witnesses; or

(g) for filing and recording bonds of public officers.

Section 17. Section **63-55-235** is amended to read:

**63-55-235. Repeal dates, Title 35A.**

(1) Title 35A, Utah Workforce Services Code, is repealed July 1, 2005.

(2) Section 35A-3-114, the Displaced Homemaker Program, together with the provision for funding that program contained in Subsection [~~21-2-8~~] 17-16-21(2)(b), is repealed July 1, 2007.

Section 18. Section **63-63a-8** is amended to read:

**63-63a-8. Children's Legal Defense Account.**

(1) There is created a restricted account within the General Fund known as the Children's Legal Defense Account.

(2) The purpose of the Children's Legal Defense Account is to provide for programs that protect and defend the rights, safety, and quality of life of children.

(3) The Legislature shall appropriate money from the account for the administrative and related costs of the following programs:

(a) implementing the Mandatory Educational Course on Children's Needs for Divorcing Parents relating to the effects of divorce on children as provided in Sections 30-3-4, 30-3-7, 30-3-10.3, 30-3-11.3, 30-3-15.3, and 30-3-18, and the Mediation Pilot Program - Child Custody or Visitation as provided in Sections 30-3-15.3 and 30-3-18;

(b) implementing the use of guardians ad litem as provided in Sections 30-3-5.2, 78-3a-318, 78-3a-912, 78-11-6, and 78-7-9; the training of guardian ad litem and volunteers as provided in Section 78-3a-912; and termination of parental rights as provided in Sections 78-3a-118, 78-3a-119, 78-3a-903, and Title 78, Chapter 3a, Part 4, Termination of Parental Rights Act. This account may not be used to supplant funding for the guardian ad litem program in the juvenile court as provided in Section 78-3a-912; and

(c) implementing and administering the Expedited Visitation Enforcement Pilot Program as provided in Section 30-3-38.

(4) The following withheld fees shall be allocated only to the Children's Legal Defense Account and used only for the purposes provided in Subsections (3)(a) through (c):

(a) the additional \$10 fee withheld on every marriage license issued in the state of Utah as provided in Section [~~21-2-8~~] 17-16-21; and

(b) a fee of \$2 shall be withheld from the existing civil filing fee collected on any complaint, affidavit, or petition in a civil, probate, or adoption matter in every court of record.

(5) The Division of Finance shall allocate the monies described in Subsection (4) from the General Fund to the Children's Legal Defense Account.

(6) Any funds in excess of \$200,000 remaining in the restricted account as of June 30 of any fiscal year shall lapse into the General Fund.

Section 19. Section **67-1a-2.5 (Effective 04/30/01)**, which is renumbered from Section 21-1-2 (Effective 04/30/01) is renumbered and amended to read:

~~[21-1-2 (Effective 04/30/01)].~~      **67-1a-2.5 (Effective 04/30/01).**    **Fees of lieutenant governor.**

In addition to the fees prescribed by Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, and Title 16, Chapter 10a, Utah Revised Business Corporation Act, the lieutenant governor shall receive and determine fees pursuant to Section 63-38-3.2 for the following:

(1) for a copy of any law, resolution, record, or other document or paper on file in the lieutenant governor's office, other than documents or papers filed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, and Title 16, Chapter 10a, Utah Revised Business Corporation Act;

(2) for affixing certificate and the Great Seal of the state, except on documents filed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, and Title 16, Chapter 10a, Utah Revised Business Corporation Act;

(3) for each commission signed by the governor, except that no charge may be made for commissions to public officers serving without compensation;

(4) for each warrant of arrest issued by the governor and attested by the lieutenant governor upon the requisition of any other state or territory;

(5) for recording miscellaneous papers or documents;

(6) for filing any paper or document not otherwise provided for; and

(7) for searching records and archives of the state, except that no member of the Legislature or other state or county officer may be charged for any search relative to matters appertaining to the

duties of his office or for a certified copy of any law or resolution relative to his official duties passed by the Legislature.

Section 20. Section **67-1a-2.5 (Superseded 04/30/01)**, which is renumbered from Section 21-1-2 (Superseded 04/30/01) is renumbered and amended to read:

**~~[21-1-2 (Superseded 04/30/01)].~~ 67-1a-2.5 (Superseded 04/30/01). Fees of lieutenant governor.**

In addition to the fees prescribed by Title 16, Chapter 10a, Utah Revised Business Corporation Act, and Title 16, Chapter 6, Utah Nonprofit Corporation and Cooperative Association Act, the lieutenant governor shall receive and determine fees pursuant to Section 63-38-3.2 for the following:

(1) for a copy of any law, resolution, record, or other document or paper on file in his office, other than documents or papers filed under Title 16, Chapter 10a, Utah Revised Business Corporation Act, and Title 16, Chapter 6, Utah Nonprofit Corporation and Cooperative Association Act;

(2) for affixing certificate and the Great Seal of the state, except on documents filed under Title 16, Chapter 10a, Utah Revised Business Corporation Act, and Title 16, Chapter 6, Utah Nonprofit Corporation and Cooperative Association Act;

(3) for each commission signed by the governor, except that no charge may be made for commissions to public officers serving without compensation;

(4) for each warrant of arrest issued by the governor and attested by the lieutenant governor upon the requisition of any other state or territory;

(5) for recording miscellaneous papers or documents;

(6) for filing any paper or document not otherwise provided for; and

(7) for searching records and archives of the state, except that no member of the Legislature or other state or county officer may be charged for any search relative to matters appertaining to the duties of his office or for a certified copy of any law or resolution relative to his official duties passed by the Legislature.

Section 21. Section **67-3-1.5**, which is renumbered from Section 21-1-3 is renumbered and

amended to read:

~~[21-1-3].~~      **67-3-1.5. Fees of state auditor.**

The state auditor shall receive the following fees:

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

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

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

Section 22. Section **70A-9-403 (Repealed 07/01/01)** is amended to read:

**70A-9-403 (Repealed 07/01/01). What constitutes filing -- Required statement -- Duration of filing -- Effect of lapsed filing -- Duties of filing officer.**

(1) Presentation for filing by the Division of Corporations and Commercial Code, or for recording, indexing, and abstracting by tract by the county recorder of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this chapter.

(2) Except as provided in Subsection (6), a filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of the five-year period unless a continuation statement is filed prior to the lapse. If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of 60 days or until expiration of the five-year period, whichever occurs later. Upon lapse, the security interest becomes unperfected, unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is considered to have been unperfected as against a person who became a purchaser or lien creditor before lapse.

(3) (a) A continuation statement may be filed by the secured party within six months prior to the expiration of the five-year period specified in Subsection (2). Any such continuation statement must be signed by the secured party, identify the original statement by file number or by entry numbers and book and page numbers and state that the original statement is still effective. A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and

complying with Subsection 70A-9-405(2), including payment of the required fee. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in Subsection (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement.

(b) Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it immediately if the filing officer has retained a microfilm or other photographic record, or in other cases after one year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statement or other related filings, or by other means, that if the filing officer physically destroys the financing statements of a period more than five years past, those which have been continued by a continuation statement or which are still effective under Subsection (6) shall be retained.

(4) Except as provided in Subsection (7), a filing officer shall mark each statement with a file number and with the date and hour of filing and shall hold the statement or a microfilm or other photographic copy thereof for public inspection. In addition, the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement.

(5) The fees for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing for an original financing statement or for a continuation statement shall be determined by the Division of Corporations and Commercial Code pursuant to Section 63-38-3.2. The secured party may at the secured party's option show a trade name for any person and an extra indexing fee determined by the Division of Corporations and Commercial Code pursuant to Section 63-38-3.2 shall be paid with respect thereto.

(6) If the debtor is a transmitting utility (Subsection 70A-9-401(5)) and a filed financing statement so states, it is effective until a termination statement is filed. A real estate mortgage which is effective as a fixture filing under Subsection 70A-9-402(6) remains effective as a fixture filing

until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

(7) When a financing statement covers timber to be cut or covers minerals or the like (including oil and gas) subject to Subsection 70A-9-103(5), or accounts, or is recorded as a fixture filing, the county recorder shall record and index it under the names of the debtor and any owner of record shown on the financing statement in the same fashion as if they were the mortgagors in a mortgage of the real estate described, and under the name of the secured party as if the secured party were the mortgagee thereunder, or where indexing is by description, record and index it in the same fashion as if the financing statement were a mortgage of the real estate described. Original statements, once duly marked and recorded by the county recorder, may be returned to the party making the filing. Except as provided in Subsection 70A-9-404(3), filings made in the office of the county recorder shall be subject to the provisions of Section ~~[21-2-8]~~ 17-16-21 in lieu of the fees provided in this chapter.

Section 23. Section **70A-9-404 (Repealed 07/01/01)** is amended to read:

**70A-9-404 (Repealed 07/01/01). Termination statement.**

(1) If a financing statement covering consumer goods is filed on or after July 1, 1977, then within one month or within ten days following written demand by the debtor after there is no outstanding secured obligation and no commitment to make advances, incur obligations, or otherwise give value, the secured party must file with each filing officer with whom the financing statement was filed, a termination statement to the effect that he no longer claims a security interest under the financing statement, which shall be identified by file number or by entry number and book and page numbers. In other cases, whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations, or otherwise give value, the secured party must, on written demand by the debtor, send the debtor, for each filing officer with whom the financing statement was filed, a termination statement to the effect that he no longer claims a security interest under the financing statement, which shall be identified by file number or by entry number and book and page numbers. A termination statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of

record complying with Subsection (2) of Section 70A-9-405, including payment of the required fee. If the affected secured party fails to file such a termination statement as required by this Subsection (1), or to send such a termination statement within ten days after proper demand therefor, he shall be liable to the debtor for \$100, and in addition, for any loss caused to the debtor by such failure.

(2) On presentation to the filing officer of such a termination statement, he must duly file the same. If he has received the termination statement in duplicate, he shall return one copy of the termination statement to the secured party stamped to show the time of receipt thereof. If the filing officer has a microfilm or other photographic record of the financing statement, and of any related continuation statement, statement of assignment and statement of release, he may remove the originals from the files at any time after receipt of the termination statement, or if he has no such record, he may remove them from the files at any time after one year after receipt of the termination statement.

(3) No fee shall be charged for filing and indexing a termination statement including sending or delivering the financing statement, except that filings made in the office of the county recorder shall be subject to the provisions of Section [~~21-2-8~~] 17-16-21 in lieu of the no-fee provision in this chapter.

Section 24. Section **70A-9a-525 (Effective 07/01/01)** is amended to read:

**70A-9a-525 (Effective 07/01/01). Fees.**

(1) Except as otherwise provided in Subsection (3), the fee for the Division of Corporations and Commercial Code filing and indexing a record under this part, including an initial financing statement of the kind described in Subsection 70A-9a-502(3), shall:

- (a) be determined by the Division of Corporations and Commercial Code;
- (b) be reasonable and fair; and
- (c) reflect the cost of services provided.

(2) The fee for the Division of Corporations and Commercial Code responding to a request for information from the Division of Corporations and Commercial Code, including for issuing a record showing whether there is on file any financing statement naming a particular debtor shall:

- (a) be determined by the Division of Corporations and Commercial Code;

- (b) be reasonable and fair; and
- (c) reflect the cost of services provided.

(3) (a) This section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under Subsection 70A-9a-502(3). However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

(b) (i) This section does not apply to fees charged by a filing office described in Subsection 70A-9a-501(1)(a).

(ii) A filing office described in Subsection 70A-9a-501(1)(a) shall charge fees in accordance with Section ~~[21-2-3]~~ 17-21-18.5.

Section 25. Section **77-18-10** is amended to read:

**77-18-10. Petition -- Expungement of records of arrest, investigation, and detention -- Eligibility conditions -- No filing fee.**

(1) A person who has been arrested with or without a warrant may petition the court in which the proceeding occurred or, if there were no court proceedings, any court in the jurisdiction where the arrest occurred, for an order expunging any and all records of arrest, investigation, and detention which may have been made in the case, subject to the following conditions:

- (a) at least 30 days have passed since the arrest for which expungement is sought;
- (b) there have been no intervening arrests; and
- (c) one of the following occurred:
  - (i) the person was released without the filing of formal charges;
  - (ii) proceedings against the person were dismissed;
  - (iii) the person was discharged without a conviction and no charges were refiled within 30 days;
  - (iv) the person was acquitted at trial; or
  - (v) the record of any proceedings against the person has been sealed.

(2) (a) A person seeking expungement under Subsection (1) may petition the court for expungement before the expiration of the 30 days required by Subsection (1)(a) if he believes

extraordinary circumstances exist and the court orders the division to proceed with the eligibility process.

(b) A court may, with the receipt of a certificate of eligibility, order expungement if the court finds that the petitioner is eligible for relief under this subsection and in the interest of justice the order should be issued prior to the expiration of the 30-day period required by Subsection (1)(a).

(3) As provided in Subsection [~~21-1-5~~] 78-7-35(1)(i), there is no fee for a petition filed under Subsection (2).

(4) The petitioner shall file a certificate of eligibility issued by the division to be reviewed by the prosecuting attorney and the court prior to issuing an order granting the expungement.

(5) If the court finds that the petitioner is eligible for relief under this section, it shall issue an order granting the expungement.

(6) No filing fees or other administrative charges shall be assessed against a successful petitioner under this section.

(7) A person who has received expungement of an arrest under this section may respond to any inquiry as though the arrest did not occur, unless otherwise provided by law.

Section 26. Section **78-5-135.5**, which is renumbered from Section 21-7-19 is renumbered and amended to read:

~~[21-7-19].~~     **78-5-135.5. Justice court judge to collect fees before filing action -- Penalty.**

Every justice court judge who files in his office any complaint, or allows a civil action to be commenced in his court, without the fees being paid in advance, except in cases permitted by law, is guilty of a class B misdemeanor.

Section 27. Section **78-6-14** is amended to read:

**78-6-14. Civil filing fees.**

(1) Except as provided in this section, the fees for a small claims action in justice court shall be the same as provided in Section [~~21-1-5~~] 78-7-35.

(2) Fees collected in small claims actions filed in municipal justice court are remitted to the municipal treasurer. Fees collected in small claims actions filed in a county justice court are remitted

to the county treasurer.

(3) (a) Seven dollars and 50 cents shall be withheld from the fee for the small claims affidavit and allocated to the Judges' Retirement Trust Fund. Five dollars shall be withheld from the fee for a small claims counter affidavit and allocated to the Judges' Retirement Trust Fund.

(b) Two dollars withheld from the civil filing fee in a court of record as provided in Subsection 63-63a-8(4)(b) shall not apply to the fees collected for small claims actions in justice court.

(4) The fee in the justice court for filing a notice of appeal for trial de novo in a court of record is \$10. The fee covers all services of the justice court on appeal but does not satisfy the trial de novo filing fee in the court of record.

Section 28. Section **78-7-35**, which is renumbered from Section 21-1-5 is renumbered and amended to read:

**[21-1-5].      78-7-35. Civil fees of the courts of record -- Courts complex design.**

(1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a court of record not governed by another subsection is \$120.

(b) The fee for filing a complaint or petition is:

(i) \$37 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$80 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than \$2,000 and less than \$10,000;

(iii) \$120 if the claim for damages or amount in interpleader is \$10,000 or more; and

(iv) \$80 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance.

(c) The fee for filing a small claims affidavit is:

(i) \$37 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is \$2,000 or less; and

(ii) \$60 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than \$2,000.

(d) The fee for filing a counter claim, cross claim, complaint in intervention, third party complaint, or other claim for relief against an existing or joined party other than the original complaint or petition is:

(i) \$45 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000 or less;

(ii) \$60 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than \$2,000 and less than \$10,000;

(iii) \$90 if the original petition is filed under Subsection (1)(a), the claim for relief is \$10,000 or more, or the party seeks relief other than monetary damages; and

(iv) \$60 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance.

(e) The fee for filing a small claims counter affidavit is:

(i) \$35 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000 or less; and

(ii) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than \$2,000.

(f) The fee for depositing funds under Section 57-1-29 when not associated with an action already before the court is determined under Subsection (1)(b) based on the amount deposited.

(g) The fee for filing a petition is:

(i) \$70 for trial de novo of an adjudication of the justice court or of the small claims department; and

(ii) \$40 for an appeal of a municipal administrative determination in accordance with Section 10-3-703.7.

(h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or petition for writ of certiorari is \$190.

(i) (i) Except for a petition filed under Subsection 77-18-10(2), the fee for filing a petition for expungement is \$50.

(ii) There is no fee for a petition filed under Subsection 77-18-10(2).

(j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be allocated to the Judges' Retirement Trust Fund, as provided in Title 49, Chapter 6, Judges' Retirement Act.

(ii) Two dollars of the fees established by Subsections (1)(a) through (i) shall be allocated by the state treasurer to be deposited in the restricted account, Children's Legal Defense Account, as provided in Section 63-63a-8.

(iii) One dollar of the fees established under Subsections (1)(a) through (e), (1)(g), and (1)(r) shall be allocated to and deposited with the Dispute Resolution Fund as provided in Section 78-31b-9.

(k) The fee for filing a judgment, order, or decree of a court of another state or of the United States is \$25.

(l) The fee for filing probate or child custody documents from another state is \$25.

(m) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the Utah State Tax Commission is \$30.

(ii) The fee for filing an abstract or transcript of judgment of a court of law of this state or a judgment, order, or decree of an administrative agency, commission, board, council, or hearing officer of this state or of its political subdivisions other than the Utah State Tax Commission, is \$40.

(n) The fee for filing a judgment by confession without action under Section 78-22-3 is \$25.

(o) The fee for filing an award of arbitration for confirmation, modification, or vacation under Title 78, Chapter 31a, Utah Arbitration Act, that is not part of an action before the court is \$25.

(p) The fee for filing a petition or counter-petition to modify a decree of divorce is \$30.

(q) The fee for filing any accounting required by law is:

(i) \$10 for an estate valued at \$50,000 or less;

(ii) \$20 for an estate valued at \$75,000 or less but more than \$50,000;

(iii) \$40 for an estate valued at \$112,000 or less but more than \$75,000;

(iv) \$80 for an estate valued at \$168,000 or less but more than \$112,000; and

(v) \$150 for an estate valued at more than \$168,000.

(r) The fee for filing a demand for a civil jury is \$50.

(s) The fee for filing a notice of deposition in this state concerning an action pending in another state under Utah Rule of Civil Procedure 26 is \$25.

(t) The fee for filing documents that require judicial approval but are not part of an action before the court is \$25.

(u) The fee for a petition to open a sealed record is \$25.

(v) The fee for a writ of replevin, attachment, execution, or garnishment is \$20 in addition to any fee for a complaint or petition.

(w) The fee for a petition for authorization for a minor to marry required by Section 30-1-9 is \$5.

(x) The fee for a certificate issued under Section 26-2-25 is \$2.

(y) The fee for a certified copy of a document is \$2 per document plus 50 cents per page.

(z) The fee for an exemplified copy of a document is \$4 per document plus 50 cents per page.

(aa) The Judicial Council shall by rule establish a schedule of fees for copies of documents and forms and for the search and retrieval of records under Title 63, Chapter 2, Government Records Access and Management Act. Fees under this subsection shall be credited to the court as a reimbursement of expenditures.

(bb) There is no fee for services or the filing of documents not listed in this section or otherwise provided by law.

(cc) Except as provided in this section, all fees collected under this section are paid to the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk accepts the pleading for filing or performs the requested service.

(dd) The filing fees under this section may not be charged to the state, its agencies, or political subdivisions filing or defending any action. In judgments awarded in favor of the state, its agencies, or political subdivisions, except the Office of Recovery Services, the court shall order the filing fees and collection costs to be paid by the judgment debtor. The sums collected under this subsection shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.

(2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts shall transfer all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of Facilities Construction and Management Capital Projects Fund.

(ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities Construction and Management shall use up to \$3,750,000 of the revenue deposited in the Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to initiate the development of a courts complex in Salt Lake City.

(B) If the Legislature approves funding for construction of a courts complex in Salt Lake City in the 1995 Annual General Session, the Division of Facilities Construction and Management shall use the revenue deposited in the Capital Projects Fund under Subsection (2)(a)(ii) to construct a courts complex in Salt Lake City.

(C) After the courts complex is completed and all bills connected with its construction have been paid, the Division of Facilities Construction and Management shall use any monies remaining in the Capital Projects Fund under Subsection (2)(a)(ii) to fund the Vernal District Court building.

(iii) The Division of Facilities Construction and Management may enter into agreements and make expenditures related to this project before the receipt of revenues provided for under this Subsection (2)(a)(iii).

(iv) The Division of Facilities Construction and Management shall:

(A) make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund; and

(B) reimburse the Capital Projects Fund upon receipt of the revenues provided for under this Subsection (2).

(b) After June 30, 1998, the administrator of the courts shall ensure that all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted account.

(c) The Division of Finance shall deposit all revenues received from the court administrator into the restricted account created by this section.

(d) (i) From May 1, 1995 until June 30, 1998, the administrator of the courts shall transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Facilities Construction and Management Capital Projects Fund. The division of money pursuant to Section 78-3-14.5 shall be calculated on the balance of the fine or bail forfeiture paid.

(ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record or an administrative traffic proceeding in accordance with Section 10-3-703.5 to the Division of Finance for deposit in the restricted account created by this section. The division of money pursuant to Section 78-3-14.5 shall be calculated on the balance of the fine or bail forfeiture paid.

(3) (a) There is created within the General Fund a restricted account known as the State Courts Complex Account.

(b) The Legislature may appropriate monies from the restricted account to the administrator of the courts for the following purposes only:

- (i) to repay costs associated with the construction of the court complex that were funded from sources other than revenues provided for under this Subsection (3)(b)(i); and
- (ii) to cover operations and maintenance costs on the court complex.

Section 29. Section **78-7-35.1**, which is renumbered from Section 21-1-4 is renumbered and amended to read:

**~~[21-1-4].~~      78-7-35.1. Fees for certificate of admission.**

The appellate courts shall receive a \$50 fee for a certificate of admission as attorney and counselor, \$30 of which shall be retained by the state treasurer for the benefit of the State Law Library, to be expended by the Judicial Council.

Section 30. Section **78-7-36**, which is renumbered from Section 21-7-3 is renumbered and amended to read:

**~~[21-7-3].~~      78-7-36. Impecunious litigants -- Affidavit.**

- (1) For purposes of this section:

(a) "Convicted" means a conviction by entry of a plea of guilty or nolo contendere, guilty and mentally ill, no contest, and conviction of any crime or offense.

(b) "Prisoner" means a person who has been convicted of a crime and is incarcerated for that crime or is being held in custody for trial or sentencing.

(2) As provided in this chapter, any person may institute, prosecute, defend, and appeal any cause in any court in this state without prepayment of fees and costs or security, by taking and subscribing, before any officer authorized to administer an oath, an affidavit of impecuniosity demonstrating financial inability to pay fees and costs or give security.

(3) The affidavit shall contain complete information on the party's:

(a) identity and residence;

(b) amount of income, including government financial support, alimony, child support;

(c) assets owned, including real and personal property;

(d) business interests;

(e) accounts receivable;

(f) securities, checking and savings account balances;

(g) debts; and

(h) monthly expenses.

(4) If the party is a prisoner, he shall also disclose the amount of money held in his prisoner trust account at the time the affidavit is executed as provided in Section [~~21-7-4.5~~] 78-7-38.

(5) In addition to the financial disclosures, the affidavit shall state the following:

I, A B, do solemnly swear or affirm that due to my poverty I am unable to bear the expenses of the action or legal proceedings which I am about to commence or the appeal which I am about to take, and that I believe I am entitled to the relief sought by the action, legal proceedings, or appeal.

Section 31. Section **78-7-37**, which is renumbered from Section 21-7-4 is renumbered and amended to read:

**[~~21-7-4~~]. 78-7-37. Effect of filing affidavit -- Nonprisoner.**

(1) Upon the filing of the oath or affirmation with any Utah court by a nonprisoner, the court shall review the affidavit and make an independent determination based on the information provided

whether court costs and fees should be waived entirely or in part. Notwithstanding the party's statement of inability to pay court costs, the court shall require a partial or full filing fee where the financial information provided demonstrates an ability to pay a fee.

(2) In instances where fees or costs are completely waived, the court shall immediately file any complaint or papers on appeal and do what is necessary or proper as promptly as if the litigant had fully paid all the regular fees. The constable or sheriff shall immediately serve any summonses, writs, process and subpoenas, and papers necessary or proper in the prosecution or defense of the cause, for the impecunious person as if all the necessary fees and costs had been fully paid.

(3) However, in cases where an impecunious affidavit is filed, the judge shall question the person who filed the affidavit at the time of hearing the cause as to his ability to pay. If the judge opines that the person is reasonably able to pay the costs, the judge shall direct the judgment or decree not be entered in favor of that person until the costs are paid. The order may be cancelled later upon petition if the facts warrant cancellation.

Section 32. Section **78-7-38**, which is renumbered from Section 21-7-4.5 is renumbered and amended to read:

**[~~21-7-4.5~~]. 78-7-38. Effect of filing affidavit -- Procedure for review and collection.**

(1) As used in this section, "prisoner" means a person who has been convicted of a crime and is incarcerated for that crime or is being held in custody for trial or sentencing.

(2) (a) Upon receipt of the oath or affirmation filed with any Utah court by a prisoner, the court shall immediately request the institution or facility where the prisoner is incarcerated to provide an account statement detailing all financial activities in the prisoner's trust account for the previous six months or since the time of incarceration, whichever is shorter.

(b) The incarcerating facility shall:

(i) prepare and produce to the court the prisoner's six-month trust account statement, current trust account balance, and aggregate disposable income; and

(ii) calculate aggregate disposable income by totaling all deposits made in the prisoner's trust account during the six-month period and subtracting all funds automatically deducted or otherwise garnished from the account during the same period.

(3) The court shall:

(a) review both the affidavit of impecuniosity and the financial account statement; and

(b) based upon the review, independently determine whether or not the prisoner is financially capable of paying all the regular fees and costs associated with filing the action.

(4) When the court concludes that the prisoner is unable to pay full fees and costs, the court shall assess an initial partial filing fee equal to 50% of the prisoner's current trust account balance or 10% of the prisoner's six-month aggregate disposable income, whichever is greater.

(5) (a) After payment of the initial partial filing fee, the court shall require the prisoner to make monthly payments of 20% of the preceding month's aggregate disposable income until the regular filing fee associated with the civil action is paid in full.

(b) The agency having custody of the prisoner shall:

(i) garnish the prisoner's account each month; and

(ii) once the collected fees exceed \$10, forward payments to the clerk of the court until the filing fees are paid.

(c) Nothing in this section may be construed to prevent the agency having custody of the prisoner from withdrawing funds from the prisoner's account to pay court-ordered restitution.

(6) Collection of the filing fees continues despite dismissal of the action.

(7) The filing fee collected may not exceed the amount of fees permitted by statute for the commencement of a civil action or an appeal of a civil action.

Section 33. Section **78-7-39**, which is renumbered from Section 21-7-4.6 is renumbered and amended to read:

**[~~21-7-4.6~~]. 78-7-39. Notice of filing fee -- Consequence of nonpayment.**

(1) When an affidavit of impecuniosity has been filed and the court assesses an initial filing fee, the court shall immediately notify the litigant in writing of:

(a) the initial filing fee required as a prerequisite to proceeding with the action;

(b) the procedure available to challenge the initial filing fee assessment as provided in Section [~~21-7-4.7~~] 78-7-40; and

(c) the inmate's ongoing obligation to make monthly payments until the entire filing fee is

paid.

(2) The court may not authorize service of process or otherwise proceed with the action, except as provided in Section [~~21-7-4.7~~] 78-7-40, until the initial filing fee has been completely paid to the clerk of the court.

Section 34. Section **78-7-40**, which is renumbered from Section 21-7-4.7 is renumbered and amended to read:

**[~~21-7-4.7~~]. 78-7-40. Filing fee challenge -- Court powers.**

(1) Within ten days of receiving court notice requiring an initial filing fee under Section [~~21-7-4.6~~] 78-7-39, the litigant may contest the fee assessment by filing a memorandum and supporting documentation with the court demonstrating inability to pay the fee.

(2) The court shall review the memorandum and supporting documents challenging the fee assessment for facial validity.

(3) The court may reduce the initial filing fee, authorize service of process, or otherwise proceed with the action without prepayment of costs and fees if the memorandum shows the litigant:

- (a) has lost his source of income;
- (b) has unaccounted nondiscretionary expenses limiting his ability to pay;
- (c) will suffer immediate irreparable harm if the action is unnecessarily delayed; or
- (d) will otherwise lose the cause of action by unnecessary delays associated with securing

funds necessary to satisfy the assessed filing fee.

(4) Nothing in this section shall be construed to relieve the litigant from the ongoing obligation of monthly payments until the filing fee is paid in full.

Section 35. Section **78-7-41**, which is renumbered from Section 21-7-5 is renumbered and amended to read:

**[~~21-7-5~~]. 78-7-41. Failure to serve papers -- Penalty.**

Any justice court judge, clerk, or officer refusing to file or serve the papers is guilty of a class B misdemeanor.

Section 36. Section **78-7-42**, which is renumbered from Section 21-7-6 is renumbered and amended to read:

**[21-7-6]. 78-7-42. Liability for fees if successful in litigation.**

Nothing herein contained shall prevent a justice court judge, clerk, constable, or sheriff from collecting his regular fees for all services so rendered for such poor person, in the event the poor person is successful in his litigation, and all fees and costs shall be regularly taxed and included in any judgment recovered by the poor person, and the fees and costs shall be paid to a justice court judge, clerk, constable, or sheriff. If the poor person fails in his action or appeal, then the costs of the action or appeal shall be adjudged against him.

Section 37. Section **78-7-43**, which is renumbered from Section 21-7-7 is renumbered and amended to read:

**[21-7-7]. 78-7-43. False affidavit -- Penalty.**

If it is made to appear to the court by affidavit that the affidavit or affirmation is untrue, or that the action or appeal is frivolous or malicious or without merit, the court may make a rule on the affiant, fixing a day not less than five days from the date of service of such notice, requiring such affiant to appear at a fixed time and place to show cause, if any he has, why he should not give bond and security for the costs of his action or appeal, or pay the legal fees therefor, and, on failure so to do, why his action or appeal should not be dismissed. Should the court be of the opinion that the affidavit or affirmation is untrue, or that said action or appeal is frivolous, malicious or without merit, the court in which such action or appeal is pending may dismiss it.

Section 38. Section **78-7-44**, which is renumbered from Section 21-7-20 is renumbered and amended to read:

**[21-7-20]. 78-7-44. Fees for writ of garnishment -- Single or continuing.**

(1) Any creditor who serves or causes to be served a writ of garnishment upon the garnishee shall pay to the garnishee:

- (a) \$10 for a single garnishment; and
  - (b) \$25 for a continuing garnishment.
- (2) The creditor shall pay the fee directly to the garnishee.

Section 39. Section **78-28-1** is amended to read:

**78-28-1. Online court assistance program -- Purpose of program -- User's fee.**

(1) There is established an online court assistance program administered by the Administrative Office of the Courts to provide the public with information about civil procedures and to assist the public in preparing and filing civil pleadings and other papers in:

- (a) uncontested divorces;
- (b) enforcement of orders in the divorce decree;
- (c) landlord and tenant actions; and
- (d) other types of proceedings approved by the Online Court Assistance Program Policy

Board.

(2) The purpose of the online court assistance program shall be to:

- (a) minimize the costs of civil litigation;
- (b) improve access to the courts; and
- (c) provide for informed use of the courts and the law by pro se litigants.

(3) (a) An additional \$20 shall be added to the filing fee established by Section ~~[21-1-5]~~ 78-7-35 if a person files a complaint, petition, answer, or response prepared through the program. There shall be no fee for using the program or for papers filed subsequent to the initial pleading.

(b) There is created within the General Fund a restricted account known as the Online Court Assistance Account. The fee collected under this Subsection (3) shall be deposited in the restricted account and appropriated by the Legislature to the Administrative Office of the Courts to develop, operate, and maintain the program and to support the use of the program through education of the public.

Section 40. Section **78-31b-9** is amended to read:

**78-31b-9. Dispute Resolution Fund -- Appropriation.**

There is created within the General Fund a restricted account known as the Dispute Resolution Fund. Fees established in Subsections ~~[21-1-5]~~ 78-7-35(1)(a) through (e), (1)(g), and (1)(r) shall be allocated to and deposited in the fund. The Legislature shall annually appropriate money from the Dispute Resolution Fund to the Administrative Office of the Courts to implement the purposes of the Alternative Dispute Resolution Act.

Section 41. Section **78-46-1** is amended to read:

**78-46-1. Title.**

This chapter is known as the "Jury [~~Selection and Service~~] and Witness Act."

Section 42. Section **78-46-24**, which is renumbered from Section 21-5-1 is renumbered and amended to read:

~~[21-5-1].~~      **78-46-24. Judicial Council rules governing jury and witness fee payment.**

The Judicial Council shall adopt rules governing the method of payment of fees, mileage, and other expenses of jurors and witnesses, authorization for payment, record of payment, and the audit of payment records.

Section 43. Section **78-46-25**, which is renumbered from Section 21-5-1.5 is renumbered and amended to read:

~~[21-5-1.5].~~      **78-46-25. State payment for jurors and subpoenaed persons -- Appropriations and costs -- Expenses in justice court.**

(1) The state is responsible for payment of all fees and expenses authorized by law for prosecution witnesses, witnesses subpoenaed by indigent defendants, and interpreter costs in criminal actions in the courts of record and actions in the juvenile court. The state is responsible for payment of all fees and expenses authorized by law for jurors in the courts of record. For such payments, the Judicial Council shall receive an annual appropriation contained in a separate line item appropriation.

(2) If expenses exceed the line item appropriation, the administrator of the courts shall submit a claim against the state to the Board of Examiners and request the board to recommend and submit a supplemental appropriation request to the Legislature for the deficit incurred.

(3) In the justice courts, the fees, mileage, and other expenses authorized by law for jurors, prosecution witnesses, witnesses subpoenaed by indigent defendants, and interpreter costs shall be paid by the municipality if the action is prosecuted by the city attorney, and by the county if the action is prosecuted by the county attorney or district attorney.

Section 44. Section **78-46-26**, which is renumbered from Section 21-5-2 is renumbered and amended to read:

~~[21-5-2].~~      **78-46-26. Witness and jurors fees in criminal cases -- Daily report of**

**attendance.**

Every witness in a criminal case subpoenaed for the state, or for a defendant by order of the court at the expense of the state, and every juror, whether grand or trial, shall, unless temporarily excused, in person report daily to the clerk his attendance at court from the time of his appearance to the date of his discharge, and no per diem shall be allowed for any day upon which attendance is not so reported.

Section 45. Section **78-46-27**, which is renumbered from Section 21-5-3 is renumbered and amended to read:

**[21-5-3].        78-46-27. Statement of service of witness or juror -- Certificate.**

Whenever a grand juror, or a witness for the state before the grand jury, is finally discharged, the foreman of the grand jury shall furnish to the clerk of the district court a statement containing information necessary for the clerk to make the juror's or witness's certificate.

Section 46. Section **78-46-28**, which is renumbered from Section 21-5-4 is renumbered and amended to read:

**[21-5-4].        78-46-28. Fees and mileage.**

(1) Every juror and witness legally required or in good faith requested to attend a trial court of record or not of record or a grand jury is entitled to:

(a) \$18.50 for the first day of attendance and \$49 per day for each subsequent day of attendance; and

(b) if traveling more than 50 miles, \$1 for each four miles in excess of 50 miles actually and necessarily traveled in going only, regardless of county lines.

(2) Persons in the custody of a penal institution upon conviction of a criminal offense are not entitled to a witness fee.

(3) A witness attending from outside the state in a civil case is allowed mileage at the rate of 25 cents per mile and is taxed for the distance actually and necessarily traveled inside the state in going only.

(4) If the witness is attending from outside the state in a criminal case, the state shall reimburse the witness under Section 77-21-3.

(5) A prosecution witness or a witness subpoenaed by an indigent defendant attending from outside the county but within the state may receive reimbursement for necessary lodging and meal expenses under rule of the Judicial Council.

(6) There is created within the General Fund, a restricted account known as the CASA Volunteer Account. A juror may donate the juror's fee to the CASA Volunteer Account in \$18.50 or \$49 increments. The Legislature shall annually appropriate money from the CASA Volunteer Account to the Administrative Office of the Courts for the purpose of recruiting, training, and supervising volunteers for the Court Appointed Special Advocate program established pursuant to Section 78-3a-912.

Section 47. Section **78-46-29**, which is renumbered from Section 21-5-4.5 is renumbered and amended to read:

**~~[21-5-4.5].~~ 78-46-29. Food allowance for jurors -- Sequestration costs.**

(1) Jurors may be provided with a reasonable food allowance under the rules of the Judicial Council.

(2) When a jury has been placed in sequestration by order of the court, the necessary expenses for food and lodging shall be provided under the rules of the Judicial Council.

Section 48. Section **78-46-30**, which is renumbered from Section 21-5-8 is renumbered and amended to read:

**~~[21-5-8].~~ 78-46-30. Witness fees in civil cases -- How paid -- Taxed as costs.**

The fees and compensation of witnesses in all civil causes shall be paid by the party who causes the witnesses to attend. A witness is not obliged to attend court in a civil cause when subpoenaed unless his fees for one day's attendance are tendered or paid to him on demand, or his fees for attendance for each day are tendered or paid to him on demand. The fees of witnesses paid in civil causes may be taxed as costs against the losing party.

Section 49. Section **78-46-31**, which is renumbered from Section 21-5-11 is renumbered and amended to read:

**~~[21-5-11].~~ 78-46-31. Justice court judge -- Certificate of attendance -- Records and reporting.**

(1) Every justice court judge shall give to each person who has served before him as a juror or as a witness in a criminal cause when summoned for the prosecution by the county or city attorney, or for the defense by order of the court, a numbered certificate, in which must be stated:

- (a) the name of the juror or witness;
- (b) the title of the proceeding;
- (c) the number of days in attendance;
- (d) the number of miles traveled if the witness has traveled more than 50 miles in going only;

and

- (e) the amount due.

(2) The certificate shall be presented to the county or city attorney. When certified by him as being correct, it shall be presented to the county or city auditor and when allowed by the county executive or town council, the auditor shall draw his warrant for it on the treasurer.

(3) Every justice court judge shall keep a record of all certificates issued by him. The record shall show all of the facts stated in each certificate. On the first Monday of each month he shall file with the treasurer a detailed statement of all certificates issued.

Section 50. Section **78-46-32**, which is renumbered from Section 21-5-14 is renumbered and amended to read:

~~[21-5-14].~~     **78-46-32. When criminal defense witness may be called at expense of state.**

A witness for a defendant in a criminal cause may not be subpoenaed at the expense of the state, county, or city, except upon order of the court. The order shall be made only upon affidavit of the defendant, showing:

- (1) the defendant is impecunious and unable to pay the per diems of the witness;
- (2) the evidence of the witness is material for defendant's defense as he is advised by his counsel, if he has counsel; and
- (3) the defendant cannot safely proceed to trial without the witness.

Section 51. Section **78-46-33**, which is renumbered from Section 21-5-14.5 is renumbered and amended to read:

**[21-5-14.5]. 78-46-33. Expenses for expert witnesses.**

(1) The court may appoint any expert witness agreed upon by the parties or of its own selection. The court shall inform the expert of required duties in writing and a copy shall be filed with the court record.

(2) The appointed expert shall advise the court and the parties of findings and may be called to testify by the court or by any party. The expert witness is subject to cross-examination by each party.

(3) The court shall determine the reasonable compensation of the expert and order payment. The parties may call expert witnesses of their own at their own expense. Upon a showing that a defendant is financially unable to pay the compensation of an expert whose services are necessary for an adequate defense, the compensation shall be paid as if the expert were called on behalf of the prosecution.

(4) Payment by the court for an expert witness in a criminal case is limited to the fee and mileage allowance for witnesses under Section ~~[21-5-4]~~ 78-46-28 and necessary meals and lodging expenses as provided by rule of the Judicial Council. Compensation of an expert witness beyond the statutory fee and mileage allowance shall be paid by the parties under Subsection (3).

Section 52. Section **78-46-34**, which is renumbered from Section 21-5-15 is renumbered and amended to read:

**[21-5-15]. 78-46-34. Officials subpoenaed not entitled to fee or per diem --  
Exception.**

No officer of the United States, or of the State of Utah, or of any county, incorporated city or town within the State of Utah, shall receive any witness fee or per diem when testifying in a criminal proceeding unless the officer is required to testify at a time other than during his or her normal working hours.

Section 53. Section **78-46-35**, which is renumbered from Section 21-5-16 is renumbered and amended to read:

**[21-5-16]. 78-46-35. Only one fee per day allowed.**

No witness shall receive fees in more than one criminal cause on the same day.

Section 54. Section **78-46-36**, which is renumbered from Section 21-5-17 is renumbered and amended to read:

**[21-5-17]. 78-46-36. Interpreters' fees taxed as costs.**

Interpreters and translators, including those skilled in foreign languages and communication with the deaf, shall be allowed such compensation for their services as the court may allow, to be taxed and collected as other costs.

Section 55. Section **78-46-37**, which is renumbered from Section 21-5-18 is renumbered and amended to read:

**[21-5-18]. 78-46-37. Jury fee assessments -- Payment.**

(1) The court has discretionary authority in any civil or criminal action or proceeding triable by jury to assess the entire cost of one day's juror fees against either the plaintiff or defendant or their counsel, or to divide the cost and assess them against both plaintiff and defendant or their counsel, or additional parties plaintiff or defendant, if:

(a) a jury demand has been made and is later withdrawn within the 48 hours preceding the commencement of the trial; or

(b) the case is settled or continued within 48 hours of trial without just cause for not having settled or continued the case prior to the 48-hour period.

(2) The party assessed shall make payment to the clerk of the court within a prescribed period. Payment shall be enforced by contempt proceedings.

(3) The court clerk shall transfer the assessment to the state treasury, or the auditor of the city or county incurring the juror expenses.

Section 56. Section **78-46-38**, which is renumbered from Section 21-6-5 is renumbered and amended to read:

**[21-6-5]. 78-46-38. Statement of certificates -- Contents -- Payment by state.**

At the end of each quarter it shall be the duty of the county treasurer and the county auditor of each county to prepare in duplicate and verify under oath a full and complete itemized statement of all certificates issued by the clerk of the district court since the date of the last statement for mileage and attendance of grand jurors, for mileage and attendance of trial jurors engaged in the trial

of criminal causes in the district court, and for mileage and attendance of witnesses summoned by or on behalf of the state in criminal causes in the district court. The statement shall set forth in detail the number of each certificate, the date of same, the name of the person in whose favor issued, the nature of the service rendered, and such other information as may be necessary and required by the state auditor. Within 30 days of the end of the quarter one of these statements shall be transmitted to the state auditor and the other shall be filed in the office of the county clerk. Upon the timely receipt of this statement by the state auditor he shall, unless he finds the same to be incorrect, draw his warrant in favor of the county treasurer upon the state treasurer for the whole amount of jurors' and witnesses' certificates as shown by the statement, and shall transmit the same to the county treasurer. The county treasurer shall hold the funds drawn from the state treasury upon the certificates for mileage and attendance of jurors and witnesses as a separate fund for the redemption of jurors' and witnesses' certificates.

Section 57. Section **78-46-39**, which is renumbered from Section 21-7-16 is renumbered and amended to read:

**[~~21-7-16~~]. 78-46-39. Witnesses or jurors -- Certifying excessive fees a felony.**

Every clerk or judge of any court, county attorney, district attorney, or other officer who shall certify as a fact any matter which he knows to be untrue, whereby any witness or juror shall be allowed a greater sum than he would otherwise be entitled to under the provisions of this title, is guilty of a felony.

Section 58. Section **78-46-40**, which is renumbered from Section 21-7-17 is renumbered and amended to read:

**[~~21-7-17~~]. 78-46-40. Purchase of certificate forbidden.**

No person connected officially with any of the district courts of this state, and no state, district, county or precinct officer, shall purchase or cause to be purchased any certificate issued to any juror or witness under the provisions of this title. Any person who violates the provisions of this section is guilty of a misdemeanor.

Section 59. Section **78-46-41**, which is renumbered from Section 21-7-18 is renumbered and amended to read:

[21-7-18]. **78-46-41. Limit of time for presentation of certificate.**

Any holder of a witness's or juror's certificate specified in this title shall be required to present it to the county treasurer or to the county auditor, as the case may be, of the county where such certificate was issued within one year from the date of its issuance. If the same shall not be presented for payment within that time, it shall be invalid and shall not be paid.

Section 60. Section **78-56-108** is amended to read:

**78-56-108. Transcripts and copies -- Fees -- Establishment of Court Reporting Technology Account.**

(1) The Judicial Council shall by rule provide for a standard page format for transcripts of court hearings.

(2) (a) The fee for a transcript of a court session, or any part of a court session, shall be \$3.50 per page, which includes the initial preparation of the transcript and one certified copy. The preparer shall deposit the original transcript with the clerk of the court and provide the person requesting the transcript with the certified copy. The cost of additional copies shall be as provided in Subsection [21-1-5] 78-7-35(1). The transcript for an appeal shall be prepared within the time period permitted by the rules of Appellate Procedure. The fee for a transcript prepared within three business days of the request shall be 1-1/2 times the base rate. The fee for a transcript prepared within one business day of the request shall be double the base rate.

(b) When a transcript is ordered by the court, the fees shall be paid by the parties to the action in equal proportion or as ordered by the court. The fee for a transcript in a criminal case in which the defendant is found to be impecunious shall be paid pursuant to Section 77-32-305.

(c) There is established within the General Fund a restricted account known as the Court Reporting Technology Account. The clerk of the court shall transfer to the state treasurer for deposit into this account all fees received under this section. The state court administrator may draw upon this account for the purchase, development, and maintenance of court reporting technologies and for other expenses necessary for maintaining a verbatim record of court sessions.

(3) The fee for the preparation of a transcript of a court hearing by an official court transcriber other than an official court reporter and the fee for the preparation of the transcript by a

certified shorthand reporter of a hearing before any referee, master, board, or commission of this state shall be as provided in Subsection (2)(a), and shall be payable to the person preparing the transcript.

**Section 61. Repealer.**

This act repeals:

**Section 21-1-1, Collection in advance by state officers.**

**Section 21-6-1, Elective state officers' fees.**

**Section 21-6-2, County officers' fees.**

**Section 21-6-3, Verification of statement of fees.**

**Section 21-6-6, Salaries of state officers withheld until fees accounted for.**

**Section 21-6-7, Salaries of county officers withheld until fees accounted for.**

**Section 21-7-1, Accounts of all fees to be kept.**

**Section 21-7-9, Fee book to be kept.**

**Section 21-7-10, Schedule of fees to be posted.**

**Section 21-7-11, Cost of publications to be advanced.**

**Section 21-7-12, Receipts to be given -- Penalty.**

**Section 21-7-13, Breach of duty respecting fees -- Penalty.**

**Section 21-7-14, Office declared vacant.**

**Section 21-7-15, Exacting excessive fees -- Penalty.**