

**COUNTY HEALTH DEPARTMENTS -
OPERATIONAL STRUCTURE**

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Kevin S. Garn

This act modifies provisions related to Local Health Departments. The act removes the requirement that municipalities join with counties to create and maintain a local health department. The act requires county governments to create health departments to serve incorporated and unincorporated areas. The act permits contiguous counties to form a health department through an interlocal agreement. The act amends provisions related to the board and powers and duties of the local health department. The act amends provisions related to the costs of local health departments and the use of local health department funds. The act makes technical and clarifying amendments. The act requires local health departments to conform to new requirements by December 31, 2002.

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

AMENDS:

10-7-3, as last amended by Chapter 9, Laws of Utah 2001

17-50-313, as renumbered and amended by Chapter 133, Laws of Utah 2000

19-6-803, as last amended by Chapter 165, Laws of Utah 2001

26A-1-102, as last amended by Chapter 133, Laws of Utah 2000

26A-1-103, as renumbered and amended by Chapter 269, Laws of Utah 1991

26A-1-105, as renumbered and amended by Chapter 269, Laws of Utah 1991

26A-1-106, as last amended by Chapter 133, Laws of Utah 2000

26A-1-107, as enacted by Chapter 122 and renumbered and amended by Chapter 269,
Laws of Utah 1991

26A-1-108, as renumbered and amended by Chapter 269, Laws of Utah 1991

26A-1-109, as renumbered and amended by Chapter 269, Laws of Utah 1991



28 **26A-1-110**, as renumbered and amended by Chapter 269, Laws of Utah 1991

29 **26A-1-111**, as renumbered and amended by Chapter 269, Laws of Utah 1991

30 **26A-1-112**, as last amended by Chapter 112 and renumbered and amended by Chapter 269,

31 Laws of Utah 1991

32 **26A-1-113**, as last amended by Chapter 112 and renumbered and amended by Chapter 269,

33 Laws of Utah 1991

34 **26A-1-114**, as last amended by Chapter 345, Laws of Utah 1998

35 **26A-1-115**, as last amended by Chapter 318, Laws of Utah 2000

36 **26A-1-117**, as last amended by Chapter 133, Laws of Utah 2000

37 **26A-1-118**, as renumbered and amended by Chapter 269, Laws of Utah 1991

38 **26A-1-119**, as last amended by Chapter 112 and renumbered and amended by Chapter 269,

39 Laws of Utah 1991

40 **26A-1-120**, as last amended by Chapter 38, Laws of Utah 1993

41 **26A-1-121**, as last amended by Chapter 112 and renumbered and amended by Chapter 269,

42 Laws of Utah 1991

43 **26A-1-122**, as renumbered and amended by Chapter 269, Laws of Utah 1991

44 ENACTS:

45 **26A-1-125**, Utah Code Annotated 1953

46 REPEALS:

47 **26A-1-104**, as renumbered and amended by Chapter 269, Laws of Utah 1991

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

49 Section 1. Section **10-7-3** is amended to read:

50 **10-7-3. Joining with county to create and maintain local health department --**

51 **Adoption of ordinances and regulations required.**

52 ~~[(1) The governing body of every municipality shall join with the governing body of the~~
53 ~~county in which the municipality is located to create and maintain a local health department as~~
54 ~~provided in Title 26A, Chapter 1, Part 1, Local Health Department Act.]~~

55 ~~[(2)]~~ The municipality shall cooperate with the board of health of the local health
56 department in the adoption of ordinances necessary for the protection of public health [~~required~~
57 ~~in this title~~].

58 Section 2. Section **17-50-313** is amended to read:

59 **17-50-313. Provisions for general health -- Creation of health department.**

60 Each county shall:

61 (1) make provisions for the preservation of health in the county and pay the related
62 expenses; and

63 (2) ~~[in cooperation with municipalities in the county,]~~ create a local health department as
64 provided in Title 26A, Chapter 1, Part 1, Local Health Department Act.

65 Section 3. Section **19-6-803** is amended to read:

66 **19-6-803. Definitions.**

67 As used in this part:

68 (1) "Abandoned waste tire pile" means a waste tire pile regarding which the local
69 department of health has not been able to:

70 (a) locate the persons responsible for the tire pile; or

71 (b) cause the persons responsible for the tire pile to remove it.

72 (2) (a) "Beneficial use" means the use of chipped tires in a manner that is not recycling,
73 storage, or disposal, but that serves as a replacement for another product or material for specific
74 purposes.

75 (b) "Beneficial use" includes the use of chipped tires:

76 (i) as daily landfill cover;

77 (ii) for civil engineering purposes;

78 (iii) as low-density, light-weight aggregate fill; or

79 (iv) for septic or drain field construction.

80 (c) "Beneficial use" does not include the use of waste tires or material derived from waste
81 tires:

82 (i) in the construction of fences; or

83 (ii) as fill, other than low-density, light-weight aggregate fill.

84 (3) "Board" means the Solid and Hazardous Waste Control Board created under Section
85 19-1-106.

86 (4) "Chip" or "chipped tire" means a two inch square or smaller piece of a waste tire.

87 (5) "Commission" means the Utah State Tax Commission.

88 (6) (a) "Consumer" means a person who purchases a new tire to satisfy a direct need, rather
89 than for resale.

90 (b) "Consumer" includes a person who purchases a new tire for a motor vehicle to be
91 rented or leased.

92 (7) "Crumb rubber" means waste tires that have been ground, shredded, or otherwise
93 reduced in size such that the particles are less than or equal to 3/8 inch in diameter and are 98%
94 wire free by weight.

95 (8) "Disposal" means the deposit, dumping, or permanent placement of any waste tire in
96 or on any land or in any water in the state.

97 (9) "Dispose of" means to deposit, dump, or permanently place any waste tire in or on any
98 land or in any water in the state.

99 (10) "Division" means the Division of Solid and Hazardous Waste created in Section
100 19-1-105, within the Department of Environmental Quality.

101 (11) "Executive secretary" means the executive secretary of the Solid and Hazardous
102 Waste Control Board created in Section 19-1-106.

103 (12) "Landfill waste tire pile" means a waste tire pile:

104 (a) located within the permitted boundary of a landfill operated by a governmental entity;
105 and

106 (b) consisting solely of waste tires brought to a landfill for disposal and diverted from the
107 landfill waste stream to the waste tire pile.

108 (13) "Local health department" means the [~~city-county~~] local health department [~~or district~~
109 ~~health department~~], as defined in Section 26A-1-102, with jurisdiction over the recycler.

110 (14) "Materials derived from waste tires" means tire sections, tire chips, tire shreadings,
111 rubber, steel, fabric, or other similar materials derived from waste tires.

112 (15) "Mobile facility" means a mobile facility capable of cutting waste tires on site so the
113 waste tires may be effectively disposed of by burial, such as in a landfill.

114 (16) "New motor vehicle" means a motor vehicle which has never been titled or registered.

115 (17) "Passenger tire equivalent" means a measure of mixed sizes of tires where each 25
116 pounds of whole tires or material derived from waste tires is equal to one waste tire.

117 (18) "Proceeds of the fee" means the money collected by the commission from payment
118 of the recycling fee including interest and penalties on delinquent payments.

119 (19) "Recycler" means a person who:

120 (a) annually uses, or can reasonably be expected within the next year to use, a minimum

121 of 100,000 waste tires generated in the state or 1,000 tons of waste tires generated in the state to
122 recover energy or produce energy, crumb rubber, chipped tires, or an ultimate product; and

123 (b) is registered as a recycler in accordance with Section 19-6-806.

124 (20) "Recycling fee" means the fee provided for in Section 19-6-805.

125 (21) "Shredded waste tires" means waste tires or material derived from waste tires that has
126 been reduced to a six inch square or smaller.

127 (22) (a) "Storage" means the placement of waste tires in a manner that does not constitute
128 disposal of the waste tires.

129 (b) "Storage" does not include:

130 (i) the use of waste tires as ballast to maintain covers on agricultural materials or to
131 maintain covers at a construction site; or

132 (ii) the storage for five or fewer days of waste tires or material derived from waste tires
133 that are to be recycled or applied to a beneficial use.

134 (23) (a) "Store" means to place waste tires in a manner that does not constitute disposal
135 of the waste tires.

136 (b) "Store" does not include:

137 (i) to use waste tires as ballast to maintain covers on agricultural materials or to maintain
138 covers at a construction site; or

139 (ii) to store for five or fewer days waste tires or material derived from waste tires that are
140 to be recycled or applied to a beneficial use.

141 (24) "Tire" means a pneumatic rubber covering designed to encircle the wheel of a vehicle
142 in which a person or property is or may be transported or drawn upon a highway.

143 (25) "Tire retailer" means any person engaged in the business of selling new tires either
144 as replacement tires or as part of a new vehicle sale.

145 (26) "Trust fund" means the Waste Tire Recycling Expendable Trust Fund provided for
146 in Section 19-6-807.

147 (27) (a) "Ultimate product" means a product that has as a component materials derived
148 from waste tires and that the executive secretary finds has a demonstrated market.

149 (b) "Ultimate product" includes pyrolyzed materials derived from:

150 (i) waste tires; or

151 (ii) chipped tires.

152 (c) "Ultimate product" does not include a product regarding which a waste tire remains
153 after the product is disposed of or disassembled.

154 (28) "Waste tire" means a tire that is no longer suitable for its original intended purpose
155 because of wear, damage, or defect.

156 (29) "Waste tire pile" means a pile of 1,000 or more waste tires at one location.

157 (30) (a) "Waste tire transporter" means a person or entity engaged in picking up or
158 transporting at one time more than ten whole waste tires, or the equivalent amount of material
159 derived from waste tires, generated in Utah for the purpose of storage, processing, or disposal.

160 (b) "Waste tire transporter" includes any person engaged in the business of collecting,
161 hauling, or transporting waste tires or who performs these functions for another person, except as
162 provided in Subsection (30)(c).

163 (c) "Waste tire transporter" does not include:

164 (i) a person transporting waste tires generated solely by:

165 (A) that person's personal vehicles;

166 (B) a commercial vehicle fleet owned or operated by that person or that person's employer;

167 (C) vehicles sold, leased, or purchased by a motor vehicle dealership owned or operated
168 by that person or that person's employer; or

169 (D) a retail tire business owned or operated by that person or that person's employer;

170 (ii) a solid waste collector operating under a license issued by a unit of local government
171 as defined in Section 63-51-2, or a local health department;

172 (iii) a recycler of waste tires;

173 (iv) a person transporting tires by rail as a common carrier subject to federal regulation; or

174 (v) a person transporting processed or chipped tires.

175 Section 4. Section **26A-1-102** is amended to read:

176 **26A-1-102. Definitions.**

177 As used in this part:

178 (1) "Board" means a local board of health established under Section 26A-1-109.

179 ~~[(4) "Local]~~ (2) "County governing body" means ~~[any local unit of]~~ one of the types of
180 county government [required to establish a local health department by Section 10-7-3 or
181 17-50-313] provided for in Title 17, Chapter 52, Part 5, Forms of County Government.

182 ~~[(2)]~~ (3) "~~City-county~~ County health department" means a local health department that

183 serves a county and municipalities located within that county.

184 ~~[(3)]~~ (4) "Department" means the Department of Health created in Title 26, Chapter 1.

185 (5) "Local health department" means a ~~[city-county]~~ county or multicounty local health
186 department established under this part.

187 (6) "Multicounty local health department" means a local health department that serves two
188 or more contiguous counties and municipalities within those counties.

189 Section 5. Section **26A-1-103** is amended to read:

190 **26A-1-103. County health departments.**

191 The governing body of each county shall create and maintain a local health department
192 which serves all incorporated and unincorporated areas in the county.

193 Section 6. Section **26A-1-105** is amended to read:

194 **26A-1-105. Multicounty local health departments.**

195 (1) Two or more contiguous counties may unite to create and maintain a local health
196 department by executing an agreement pursuant to the provisions of Title 11, Chapter 13, Utah
197 Interlocal Cooperation Act.

198 (2) Any municipalities within counties comprising a ~~[multi-county]~~ multicounty local
199 health department shall be ~~[included in]~~ served by the ~~[multi-county]~~ multicounty local health
200 department ~~[by agreement between the governing bodies of the municipalities and the governing~~
201 ~~bodies of the counties comprising the multi-county local health department].~~

202 Section 7. Section **26A-1-106** is amended to read:

203 **26A-1-106. Assistance in establishing local departments -- Monitoring and standards**
204 **of performance -- Responsibilities.**

205 (1) (a) By request of ~~[local]~~ county governing bodies, the department may assist in the
206 establishment of a local health department ~~[under Sections 10-7-3 and 17-50-313].~~

207 (b) The department shall monitor the effort of the local health department to protect and
208 promote the health of the public.

209 (c) The department shall establish by rule minimum performance standards for basic
210 programs of public health administration, personal health, laboratory services, health resources,
211 and other preventive health programs not in conflict with state law as it finds necessary or
212 desirable for the protection of the public health.

213 (d) The department may by contract provide;

214 (i) funds to assist a local health department if local resources are inadequate; and [~~may~~
215 provide]

216 (ii) assistance to achieve the purposes of this part.

217 (2) Regulations or standards relating to public health or environmental health services
218 adopted or established by a local health department may not be less restrictive than department
219 rules.

220 (3) Local health departments are responsible within their boundaries for providing, directly
221 or indirectly, basic public health services that include:

- 222 (a) public health administration and support services;
- 223 (b) maternal and child health;
- 224 (c) communicable disease control, surveillance, and epidemiology;
- 225 (d) food protection;
- 226 (e) solid waste management;
- 227 (f) waste water management; and
- 228 (g) safe drinking water management.

229 (4) The Department of Environmental Quality shall establish by rule minimum
230 performance standards, including standards for inspection and enforcement, for basic programs
231 of environmental health, not inconsistent with law, as necessary or desirable for the protection of
232 public health.

233 Section 8. Section **26A-1-107** is amended to read:

234 **26A-1-107. Branch office -- Costs -- In lieu of local department.**

235 (1) The county governing bodies within the area served by a local health department may
236 request that the Departments of Health and Environmental Quality establish a branch office under
237 Sections 19-1-304 and 26-1-25.

238 (2) The cost of operation and maintenance of a branch office shall be established by
239 contract between the Departments of Health and Environmental Quality and the governing bodies
240 of participating counties and municipalities.

241 (3) A branch office meets the requirement under this part that local governing bodies
242 establish and maintain a local health department.

243 Section 9. Section **26A-1-108** is amended to read:

244 **26A-1-108. Jurisdiction and duties of local departments.**

245 A local health department has jurisdiction in all unincorporated and incorporated areas of
246 the county or counties in which it is established and shall enforce state health laws, and
247 department and local health department rules, regulations, and standards within those areas.

248 Section 10. Section **26A-1-109** is amended to read:

249 **26A-1-109. Local boards of health -- Membership -- Organization -- Meetings.**

250 (1) A local health department shall have a board of health which shall consist of at least
251 five members.

252 (a) Board members shall be appointed pursuant to county ordinance or interlocal
253 agreement by the [~~local governing bodies and shall consist of at least five persons~~] counties
254 creating the local health department.

255 (b) The board shall be nonpartisan.

256 (c) An employee of the local health department may not be a board member.

257 (2) (a) As possible, of the initial board:

258 (i) [~~one-fifth~~] 1/5 shall serve a term of one year;

259 (ii) [~~one-fifth~~] 1/5 shall serve a term of two years;

260 (iii) [~~one-fifth~~] 1/5 shall serve a term of three years;

261 (iv) [~~one-fifth~~] 1/5 shall serve a term of four years; and

262 (v) [~~one-fifth~~] 1/5 shall serve a term of five years.

263 (b) All subsequent appointments shall be for terms of five years and shall be made, as
264 possible, so [~~one-fifth~~] 1/5 of the terms of office of those serving on the board expire each year.
265 Members appointed to fill vacancies shall hold office until expiration of the terms of their
266 predecessors.

267 (c) Board members may be removed by the appointing county for cause prior to the
268 expiration of the member's term. Any board member removed pursuant to this Subsection (2) may
269 request and receive a hearing before the county legislative body prior to the effective date of the
270 removal.

271 (3) (a) All members of the board shall reside within the boundaries of the area served by
272 the local health department.

273 (b) A majority of the members may not:

274 (i) be primarily engaged in providing health care to individuals or in the administration of
275 facilities or institutions in which health care is provided;

276 (ii) hold a fiduciary position or have a fiduciary interest in any entity involved in the
277 provision of health care; and

278 (iii) receive either directly or through a spouse more than [~~one-tenth~~] 1/10 of the member's
279 gross income from any entity or activity relating to health care; and

280 (iv) be members of one type of business or profession.

281 (4) (a) The board shall at its organizational meeting elect from its members a chairman and
282 a vice-chairman and secretary.

283 (b) The health officer of the local health department appointed pursuant to Section
284 26A-1-110 may serve as secretary to the board.

285 (5) (a) (i) Regular meetings of the board shall be held not less than once every three
286 months.

287 (ii) Special meetings may be called by the chairman, the health officer, or a majority of the
288 members at any time on three days' notice by mail, or in case of emergency, as soon as possible
289 after the members of the board have been notified.

290 (b) A board may adopt and amend bylaws for the transaction of its business. A majority
291 of the board members constitute a quorum.

292 (c) Members serve without compensation, but shall be reimbursed for actual and necessary
293 traveling and subsistence expenses when absent from their place of residence in attendance at
294 authorized meetings.

295 (d) All meetings are presumed to have been called and held in accordance with this section
296 and all orders and proceedings are presumed to be authorized unless the contrary is proved.

297 (6) The board shall annually report [~~the operations of the local health department~~] on its
298 activities to the local governing bodies [~~contributing funds to~~] of the municipalities and counties
299 served by the local health department.

300 (7) The board shall annually send a copy of the local health department's approved budget
301 to the department and all local governing bodies [~~that contribute funds to~~] of the municipalities and
302 counties served by the local health department. The report shall be submitted no later than 30 days
303 after the beginning of the local health department's fiscal year.

304 (8) The board shall determine the general public health policies to be followed in
305 administration of the local health department and may adopt public health rules, regulations, and
306 standards necessary to implement the board's public health policies. The board shall adopt written

307 procedures to carry out the provisions of this section.

308 Section 11. Section **26A-1-110** is amended to read:

309 **26A-1-110. Local health officer -- Powers and duties -- Vacancy.**

310 (1) ~~[The board shall appoint]~~ As provided by ordinance adopted by a county creating a
311 county health department or as provided by the interlocal agreement pursuant to which a
312 multicounty health department is created, a local health officer ~~[and determine the officer's~~
313 ~~compensation, subject to ratification by the local governing bodies that contribute funds to the~~
314 ~~local health department]~~ shall be appointed and the officer's compensation established.

315 ~~[(2) The board shall determine the general policies to be followed in administration of the~~
316 ~~local health department. The board shall adopt written procedures to carry out the provisions of~~
317 ~~this section.]~~

318 ~~[(3)]~~ (2) The local health officer shall:

319 (a) have the qualifications of training and experience for that office equivalent to those
320 approved by the department for local health officers;

321 (b) be the administrative and executive officer of the local health department and devote
322 full time to the duties of the office;

323 (c) if provisions have been made with the department, act as the local registrar of vital
324 statistics within the local health department's boundaries without additional compensation or
325 payment of fees provided by law;

326 (d) (i) if the local health department is a county health department, prepare an annual
327 budget and present it ~~[to the board]~~ as provided by county ordinance for approval prior to the
328 beginning of each fiscal year ~~[unless an extension is approved by the board, and]; or~~

329 (ii) if the local health department is a multicounty health department, prepare an annual
330 budget and present it for approval in accordance with the interlocal agreement creating the local
331 health department prior to the beginning of each fiscal year; and

332 (e) prepare an annual report and provide it to the department and all local ~~[governing~~
333 ~~bodies contributing funds to]~~ municipalities and counties in the local health department.

334 ~~[(4)]~~ (3) The report under Subsection ~~[(3)]~~ (2)(e) shall contain a copy of the independent
335 financial audit required under Section 26A-1-115, a description of the population served by the
336 local health department, and other information as requested ~~[and approved]~~ by the board or the
337 county or counties creating the local health department.

338 ~~[(5)]~~ (4) In the absence or disability of the local health officer, or if there is a vacancy in
339 that office, ~~[the board shall appoint]~~ an acting health officer may be appointed for a temporary
340 period not to exceed one year as provided by county ordinance or in accordance with procedures
341 established in the interlocal agreement creating the local health department.

342 Section 12. Section **26A-1-111** is amended to read:

343 **26A-1-111. Removal of local health officer.**

344 The ~~[board may remove the]~~ local health officer may be removed for cause as provided by
345 county ordinance or pursuant to procedures established in the interlocal agreement creating the
346 local health department. A hearing shall be granted if requested by the local health officer.

347 Section 13. Section **26A-1-112** is amended to read:

348 **26A-1-112. Appointment of personnel.**

349 (1) All local health department personnel shall be hired by the local health officer or his
350 designee in accordance with the merit system, personnel, and compensation policies of the county
351 in which the headquarters of the local health department is located, unless another county is
352 designated pursuant to the interlocal agreement between the counties creating the local health
353 department. The personnel shall have qualifications for their positions equivalent to those
354 approved for comparable positions in the Departments of Health and Environmental Quality.

355 ~~[(2) A personnel compensation plan shall be approved by the board.]~~

356 ~~[(3) (a) Local health departments shall develop personnel policies based on a merit system~~
357 ~~and shall submit the policies to the board for approval.]~~

358 ~~[(b) If the board does not approve the policies, the board may adopt the personnel policies~~
359 ~~of the county in which the local health department headquarters are located.]~~

360 ~~[(4)]~~ (2) Subject to the local merit system, employees of the local health department may
361 be removed by the local health officer for cause. A hearing ~~[by the board]~~ shall be granted if
362 requested by the employee.

363 Section 14. Section **26A-1-113** is amended to read:

364 **26A-1-113. Right of entry to regulated premises by representatives for inspection.**

365 (1) Upon presenting proper identification, authorized representatives of local health
366 departments may enter upon the premises of properties regulated by local health departments to
367 perform routine inspections to insure compliance with rules, standards, regulations, and ordinances
368 as adopted by the Departments of Health and Environmental Quality, local boards of health, ~~[local]~~

369 county or municipal governing bodies [~~participating in local health departments~~], or the Division
370 of Occupational and Professional Licensing under Section 58-56-4.

371 (2) Section 58-56-9 does not apply to health inspectors acting under this section.

372 (3) This section does not authorize local health departments to inspect private dwellings.

373 Section 15. Section **26A-1-114** is amended to read:

374 **26A-1-114. Powers and duties of departments.**

375 (1) A local health department may:

376 (a) subject to the provisions in Section 26A-1-108, enforce state laws, local ordinances,
377 department rules, and local health department standards and regulations relating to public health
378 and sanitation, including the plumbing code adopted by the Division of Occupational and
379 Professional Licensing under Section 58-56-4 and under Title 26, Chapter 15a, Food Safety
380 Manager Certification Act, in all incorporated and unincorporated areas served by the local health
381 department;

382 (b) establish, maintain, and enforce isolation and quarantine, and exercise physical control
383 over property and over individuals as the local health department finds necessary for the protection
384 of the public health;

385 (c) establish and maintain medical, environmental, occupational, and other laboratory
386 services considered necessary or proper for the protection of the public health;

387 (d) establish and operate reasonable health programs or measures not in conflict with state
388 law that:

389 (i) are necessary or desirable for the promotion or protection of the public health and the
390 control of disease; or

391 (ii) may be necessary to ameliorate the major risk factors associated with the major causes
392 of injury, sickness, death, and disability in the state;

393 (e) close theaters, schools, and other public places and prohibit gatherings of people when
394 necessary to protect the public health;

395 (f) abate nuisances or eliminate sources of filth and infectious and communicable diseases
396 affecting the public health and bill the owner or other person in charge of the premises upon which
397 this nuisance occurs for the cost of abatement;

398 (g) make necessary sanitary and health investigations and inspections on its own initiative
399 or in cooperation with the Department of Health or Environmental Quality, or both, as to any

400 matters affecting the public health;

401 (h) pursuant to county ordinance or interlocal agreement:

402 (i) establish and collect appropriate fees for the performance of services and operation of
403 authorized or required programs and duties;

404 (ii) accept, use, and administer all federal, state, or private donations or grants of funds,
405 property, services, or materials for public health purposes; and

406 (iii) make agreements not in conflict with state law that are conditional to receiving a
407 donation or grant;

408 (i) prepare, publish, and disseminate information necessary to inform and advise the public
409 concerning:

410 (i) the health and wellness of the population, specific hazards, and risk factors that may
411 adversely affect the health and wellness of the population; and

412 (ii) specific activities individuals and institutions can engage in to promote and protect the
413 health and wellness of the population;

414 (j) investigate the causes of morbidity and mortality;

415 (k) issue notices and orders necessary to carry out this part;

416 (l) conduct studies to identify injury problems, establish injury control systems, develop
417 standards for the correction and prevention of future occurrences, and provide public information
418 and instruction to special high risk groups;

419 (m) cooperate with boards created under Section 19-1-106 to enforce laws and rules within
420 the jurisdiction of the boards; and

421 (n) cooperate with the state health department, the Department of Corrections, the
422 Administrative Office of the Courts, the Division of Youth Corrections, and the Crime Victims
423 Reparations Board to conduct testing for HIV infection of convicted sexual offenders and any
424 victims of a sexual offense.

425 (2) The local health department shall:

426 (a) establish programs or measures to promote and protect the health and general wellness
427 of the people within the boundaries of the local health department;

428 (b) investigate infectious and other diseases of public health importance and implement
429 measures to control the causes of epidemic and communicable diseases and other conditions
430 significantly affecting the public health which may include involuntary testing of convicted sexual

431 offenders for the HIV infection pursuant to Section 76-5-502 and voluntary testing of victims of
432 sexual offenses for HIV infection pursuant to Section 76-5-503;

433 (c) cooperate with the department in matters pertaining to the public health and in the
434 administration of state health laws; and

435 (d) coordinate implementation of environmental programs to maximize efficient use of
436 resources by developing with the Department of Environmental Quality a Comprehensive
437 Environmental Service Delivery Plan that:

438 (i) recognizes that the Department of Environmental Quality and local health departments
439 are the foundation for providing environmental health programs in the state;

440 (ii) delineates the responsibilities of the department and each local health department for
441 the efficient delivery of environmental programs using federal, state, and local authorities,
442 responsibilities, and resources;

443 (iii) provides for the delegation of authority and pass through of funding to local health
444 departments for environmental programs, to the extent allowed by applicable law, identified in the
445 plan, and requested by the local health department; and

446 (iv) is reviewed and updated annually.

447 (3) The local health department has the following duties regarding public and private
448 schools within its boundaries:

449 (a) enforce all ordinances, standards, and regulations pertaining to the public health of
450 persons attending public and private schools;

451 (b) exclude from school attendance any person, including teachers, who is suffering from
452 any communicable or infectious disease, whether acute or chronic, if the person is likely to convey
453 the disease to those in attendance;

454 (c) (i) make regular inspections of the health-related condition of all school buildings and
455 premises;

456 (ii) report the inspections on forms furnished by the department to those responsible for
457 the condition and provide instructions for correction of any conditions that impair or endanger the
458 health or life of those attending the schools; and

459 (iii) provide a copy of the report to the department at the time the report is made.

460 (4) If those responsible for the health-related condition of the school buildings and
461 premises do not carry out any instructions for corrections provided in a report in Subsection (3)(c),

462 the local health board shall cause the conditions to be corrected at the expense of the persons
463 responsible.

464 (5) The local health department may exercise incidental authority as necessary to carry out
465 the provisions and purposes of this part.

466 Section 16. Section **26A-1-115** is amended to read:

467 **26A-1-115. Apportionment of costs -- Contracts to provide services -- Percentage**
468 **match of state funds -- Audit.**

469 (1) (a) The cost of establishing and maintaining a multicounty local health department may
470 be apportioned among the participating [~~municipalities and~~] counties on the basis of population
471 in proportion to the total population of all [~~municipalities and~~] counties within the boundaries of
472 the local health department, or upon other bases agreeable to the participating counties [~~and~~
473 ~~municipalities~~].

474 (b) Costs of establishing and maintaining a county health department shall be a charge of
475 the county creating the local health department.

476 (c) Money available from fees, contracts, surpluses, grants, and donations may also be used
477 to establish and maintain local health departments.

478 [~~(b)~~] (d) As used in this Subsection (1), "population" means population estimates prepared
479 by the Utah Population Estimates Committee.

480 (2) The cost of providing, equipping, and maintaining suitable offices and facilities for a
481 local health department is the responsibility of participating governing bodies.

482 (3) Local health departments that comply with all department rules and secure advance
483 approval of proposed service boundaries from the department may by contract receive funds under
484 Section 26A-1-116 from the department to provide specified public health services.

485 (4) Contract funds distributed under Subsection (3) shall be in accordance with Section
486 26A-1-116 and policies and procedures adopted by the department.

487 (5) Department rules shall require that contract funds be used for public health services
488 and not replace other funds used for local public health services.

489 (6) All state funds distributed by contract from the department to local health departments
490 for public health services shall be matched by those local health departments at a percentage
491 determined by the department in consultation with local health departments. Counties shall have
492 no legal obligation to match state funds at percentages in excess of those established by the

493 department and shall suffer no penalty or reduction in state funding for failing to exceed the
494 required funding match.

495 (7) (a) Each local health department shall cause an annual financial and compliance audit
496 to be made of its operations by a certified public accountant. The audit may be conducted as part
497 of an annual county government audit of the county where the local health department
498 headquarters are located.

499 (b) The local health department shall provide a copy of the audit report to the department
500 and the local governing bodies [~~that contribute funds to~~] of counties and municipalities
501 participating in the local health department.

502 Section 17. Section **26A-1-117** is amended to read:

503 **26A-1-117. Funding of departments -- Tax levies.**

504 (1) [~~Municipalities or counties~~] Counties involved in the establishment and operation of
505 local health departments shall fund the local health departments with appropriations from the
506 General Fund, from the levy of a tax, or in part by an appropriation and in part by a levy under
507 Section 17-53-221.

508 (2) A local health department may be funded as provided by law from:

509 (a) local, state, and federal funds within local levy ceilings;

510 (b) a separate ceiling exempt tax under Section 59-2-911, which may not exceed .0004 per
511 dollar of taxable value of taxable property; or

512 (c) in part by each.

513 (3) Local funds from either tax source shall be appropriated by the local governing
514 authorities of the counties participating in the local health department.

515 Section 18. Section **26A-1-118** is amended to read:

516 **26A-1-118. Treasurer of local department -- Bond.**

517 (1) In [~~city-county~~] county health departments, the county treasurer shall serve as treasurer
518 of the local health department.

519 (2) [~~In multi-county~~] Unless another county treasurer is designated pursuant to the
520 interlocal agreement creating the multicounty local health [departments] department, the county
521 treasurer of the county in which the headquarters of the local health department is located shall
522 serve as treasurer of the local health department. The [~~board and the governing body of the county~~
523 ~~in which the treasurer is serving may agree on~~] local health department shall make an equitable

524 reimbursement to the county for the services.

525 (3) The official bond of a county treasurer shall cover the duties as treasurer of a local
526 health department.

527 Section 19. Section **26A-1-119** is amended to read:

528 **26A-1-119. Local health department fund -- Sources -- Uses.**

529 (1) The treasurer of a local health department shall, as part of the department organization,
530 create a local health department fund to which shall be credited any moneys appropriated or
531 otherwise made available by participating counties~~[, cities,]~~ or other local political subdivisions,
532 and any moneys received from the state, federal government, or from surpluses, grants, fees, or
533 donations for local health purposes.

534 (2) (a) Moneys credited to the fund shall be expended only for maintenance and operation
535 of the local health department.

536 (b) Claims or demands against the fund shall be allowed on certification by the health
537 officer or other employee of the local health department designated by the ~~[board]~~ health officer.

538 Section 20. Section **26A-1-120** is amended to read:

539 **26A-1-120. County attorney or district attorney to represent and advise department,**
540 **board, officers, and employees.**

541 (1) The county attorney of the county ~~[when]~~ where a civil claim arises shall bring any
542 action requested by a local health department to abate a condition that exists in violation of, or to
543 restrain or enjoin any action which is in violation of the public health laws and rules of the
544 Departments of Health and Environmental Quality, the standards, regulations, orders, and notices,
545 of a local health department, and other laws, ordinances, and rules pertaining to health and sanitary
546 matters.

547 (2) (a) The district attorney or county attorney having criminal jurisdiction shall prosecute
548 criminal violations of the public health laws and rules of the Departments of Health and
549 Environmental Quality, the standards, regulations, orders, and notices, of a local health
550 department, and other laws~~[, ordinances,]~~ and rules pertaining to health and sanitary matters.

551 (b) Violations of local ordinances relating to public health matters shall be prosecuted by
552 the prosecuting attorney of the jurisdiction enacting the ordinance.

553 (3) The county attorney of a county where an action arises shall:

554 (a) act as legal adviser to the local health department and the board; and

555 (b) defend all actions and proceedings brought against the local health department, the
556 board, or the officers and employees of the local health department.

557 Section 21. Section **26A-1-121** is amended to read:

558 **26A-1-121. Standards and regulations adopted by local board -- Administrative and**
559 **judicial review of actions.**

560 (1) (a) The board may make standards and regulations not in conflict with rules of the
561 Departments of Health and Environmental Quality and necessary for the promotion of public
562 health, environmental health quality, injury control, and the prevention of outbreaks and spread
563 of communicable and infectious diseases.

564 (b) The standards and regulations supersede existing local standards, regulations, and
565 ordinances pertaining to similar subject matter.

566 (c) The board shall provide public hearings prior to the adoption of any regulation or
567 standard. Notice of any public hearing shall be published at least twice throughout the county or
568 counties served by the local health department. The publication may be in one or more newspapers,
569 so long as notice is provided in accordance with this Subsection (1)(c).

570 (d) The hearings may be conducted by the board at a regular or special meeting, or the
571 board may appoint hearing officers who may conduct hearings in the name of the board at a
572 designated time and place.

573 (e) A record or summary of the proceedings of any hearing shall be taken and filed with
574 the board.

575 (2) (a) Any person aggrieved by any action or inaction of the local health department
576 relating to the public health shall have an opportunity for a hearing with the local health officer or
577 a designated representative of the local health department. The board shall grant a subsequent
578 hearing to the person upon his request in writing.

579 (b) In any adjudicative hearing, a member of the board or the hearing officer may
580 administer oaths, examine witnesses, and issue notice of the hearings or subpoenas in the name
581 of the board requiring the testimony of witnesses and the production of evidence relevant to any
582 matter in the hearing. A written record shall be made of the hearing, including findings of facts and
583 conclusions of law.

584 (c) Judicial review of a final determination of the local board may be secured by any
585 person adversely affected by the final determination, or by the Departments of Health or

586 Environmental Quality, by filing a petition in the district court within 30 days after receipt of
587 notice of the board's final determination.

588 (d) The petition shall be served upon [~~a member~~] the secretary of the board and shall state
589 the grounds upon which review is sought.

590 (e) The board in its answer shall certify and file with the court all documents and papers
591 and a transcript of all testimony taken in the matter together with its findings of fact, conclusions
592 of law, and order.

593 (f) The appellant and the board are parties to the appeal.

594 (g) The Departments of Health and Environmental Quality may become a party by
595 intervention as in a civil action upon showing cause.

596 (h) A further appeal may be taken to the Court of Appeals under Section 78-2a-3.

597 Section 22. Section **26A-1-122** is amended to read:

598 **26A-1-122. Counties joining existing department -- Abolition of department --**
599 **Withdrawal of county from department.**

600 (1) If additional or adjacent counties join an existing local health department, provisions
601 shall be made for the appointment and terms of new board members in accordance with the
602 applicable provisions of this part.

603 (2) (a) A local health department established under this part may not be abolished until it
604 has been in existence at least two years.

605 (b) A participating county may not withdraw from a local health department until the
606 county has participated in maintenance of the local health department for at least two years. The
607 effective date of any withdrawal shall be December 31. Ninety days prior written notice of the
608 withdrawal shall be given to the board.

609 (3) If a local health department is abolished, the participating counties shall establish local
610 health departments under Section 26A-1-103, [~~26A-1-104,~~] 26A-1-105, or 26A-1-106 at least 30
611 days prior to abolishment.

612 Section 23. Section **26A-1-125** is enacted to read:

613 **26A-1-125. Existing local health departments required to conform to statutory**
614 **amendments.**

615 Each county or municipality operating or participating in the operation of a local health
616 department in existence as of January 1, 2002, shall, no later than December 31, 2002, amend its

617 local ordinances, policies, or interlocal agreements relating to the organization and operation of
618 the local health department to conform to the statutory amendments to Title 26A during the 2002
619 General Session.

620 Section 24. **Repealer.**

621 This act repeals:

622 Section **26A-1-104, City-county health departments.**

Legislative Review Note
as of 1-2-02 1:36 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel