

Representative Kevin S. Garn proposes the following substitute bill:

**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



26 **26A-1-108**, as renumbered and amended by Chapter 269, Laws of Utah 1991
 27 **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)]~~ Each municipality shall participate in and cooperate with the local health department
 56 operating in the county in which the municipality is located. The municipality shall cooperate

57 with the board of health of the local health department in the adoption of ordinances necessary for
58 the protection of public health [~~required in this title~~].

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

60 **17-50-313. Provisions for general health -- Creation of health department.**

61 Each county shall:

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

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

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

67 **19-6-803. Definitions.**

68 As used in this part:

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

- 71 (a) locate the persons responsible for the tire pile; or
- 72 (b) cause the persons responsible for the tire pile to remove it.

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

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

- 77 (i) as daily landfill cover;
- 78 (ii) for civil engineering purposes;
- 79 (iii) as low-density, light-weight aggregate fill; or
- 80 (iv) for septic or drain field construction.

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

- 83 (i) in the construction of fences; or
- 84 (ii) as fill, other than low-density, light-weight aggregate fill.

85 (3) "Board" means the Solid and Hazardous Waste Control Board created under Section
86 19-1-106.

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

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

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

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

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

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

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

100 (10) "Division" means the Division of Solid and Hazardous Waste created in Section
101 19-1-105, within the Department of Environmental Quality.

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

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

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

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

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

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

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

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

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

118 (18) "Proceeds of the fee" means the money collected by the commission from payment

119 of the recycling fee including interest and penalties on delinquent payments.

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

121 (a) annually uses, or can reasonably be expected within the next year to use, a minimum
122 of 100,000 waste tires generated in the state or 1,000 tons of waste tires generated in the state to
123 recover energy or produce energy, crumb rubber, chipped tires, or an ultimate product; and

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

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

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

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

130 (b) "Storage" does not include:

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

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

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

137 (b) "Store" does not include:

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

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

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

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

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

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

150 (b) "Ultimate product" includes pyrolized materials derived from:

151 (i) waste tires; or

152 (ii) chipped tires.

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

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

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

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

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

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

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

166 (A) that person's personal vehicles;

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

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

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

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

173 (iii) a recycler of waste tires;

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

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

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

177 **26A-1-102. Definitions.**

178 As used in this part:

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

180 [~~4~~ "~~Local~~] (2) "County governing body" means [~~any local unit of~~] one of the types of

181 county government [~~required to establish a local health department by Section 10-7-3 or~~
182 ~~17-50-313~~] provided for in Title 17, Chapter 52, Part 5, Forms of County Government.

183 [~~(2)~~] (3) "[~~City=county~~] County health department" means a local health department that
184 serves a county and municipalities located within that county.

185 [~~(3)~~] (4) "Department" means the Department of Health created in Title 26, Chapter 1.

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

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

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

191 **26A-1-103. County health departments.**

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

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

195 **26A-1-105. Multicounty local health departments.**

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

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

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

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

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

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

210 (c) The department shall establish by rule minimum performance standards for basic
211 programs of public health administration, personal health, laboratory services, health resources,

212 and other preventive health programs not in conflict with state law as it finds necessary or
213 desirable for the protection of the public health.

214 (d) The department may by contract provide;

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

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

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

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

223 (a) public health administration and support services;

224 (b) maternal and child health;

225 (c) communicable disease control, surveillance, and epidemiology;

226 (d) food protection;

227 (e) solid waste management;

228 (f) waste water management; and

229 (g) safe drinking water management.

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

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

235 **26A-1-107. Branch office -- Costs -- In lieu of local department.**

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

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

242 (3) A branch office meets the requirement under this part that local governing bodies

243 establish and maintain a local health department.

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

245 **26A-1-108. Jurisdiction and duties of local departments.**

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

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

250 **26A-1-109. Local boards of health -- Membership -- Organization -- Meetings.**

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

252 (a) (i) 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 (ii) The board shall include representatives from the municipalities included within the
256 area served by the local health department.

257 (iii) The representative required in Subsection (1)(a)(ii) shall be selected from:

258 (A) nominees submitted by the municipalities; or

259 (B) in the absence of nominees, the counties creating the local health department.

260 (b) The board shall be nonpartisan.

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

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

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

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

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

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

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

268 (b) All subsequent appointments shall be for terms of five years and shall be made, as
269 possible, so [~~one-fifth~~] 1/5 of the terms of office of those serving on the board expire each year.

270 Members appointed to fill vacancies shall hold office until expiration of the terms of their
271 predecessors.

272 (c) Board members may be removed by the appointing county for cause prior to the
273 expiration of the member's term. Any board member removed pursuant to this Subsection (2) may

274 request and receive a hearing before the county legislative body prior to the effective date of the
275 removal.

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

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

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

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

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

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

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

288 (b) The health officer of the local health department appointed pursuant to Section
289 26A-1-110 may serve as secretary to the board.

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

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

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

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

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

302 (6) The board shall annually report the operations of the local health department and the
303 board to the local governing bodies [~~contributing funds to~~] of the municipalities and counties
304 served by the local health department.

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

309 (8) The board shall determine the general public health policies to be followed in
 310 administration of the local health department and may adopt and enforce public health rules,
 311 regulations, and standards necessary to implement the board's public health policies. The board
 312 shall adopt written procedures to carry out the provisions of this section.

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

314 **26A-1-110. Local health officer -- Powers and duties -- Vacancy.**

315 (1) The board shall appoint a local health officer and determine the officer's
 316 compensation[;]:

317 (a) subject to ratification by the [local] county governing bodies [that contribute funds to
 318 the local health department.] of the county or counties in the local health department; and

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

322 (b) as provided by:

323 (i) ordinance adopted by a county creating a county health department; or

324 (ii) the interlocal agreement pursuant to which a multicounty health department is created.

325 [~~(3)~~] (2) The local health officer shall:

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

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

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

333 (d) (i) prior to the beginning of each fiscal year, prepare an annual budget approved by the
 334 board and present it [to the board for approval prior to the beginning of each fiscal year unless an
 335 extension is approved by the board; and];

336 (A) to the county legislative body if the local health department is a county health
337 department; or

338 (B) to the entity designated in the interlocal agreement creating the local health department
339 if the local health department is a multicounty health department;

340 (ii) obtain final approval of the annual budget from the governing bodies designated in
341 Subsection (d)(i)(A) or (B) after the governing body either:

342 (A) reviews and approves the budget; or

343 (B) amends and approves the budget; and

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

346 [~~(4)~~] (3) The report under Subsection [~~(3)~~] (2)(e) shall contain a copy of the independent
347 financial audit required under Section 26A-1-115, a description of the population served by the
348 local health department, and other information as requested [~~and approved~~] by the board or the
349 county or counties creating the local health department.

350 [~~(5)~~] (4) In the absence or disability of the local health officer, or if there is a vacancy in
351 that office, the board shall appoint an acting health officer for a temporary period not to exceed one
352 year. The appointment shall be ratified by the county governing body of the county or counties in
353 the local health department.

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

355 **26A-1-111. Removal of local health officer.**

356 (1) The [~~board may remove the~~] local health officer may be removed for cause[-:] by:

357 (a) the board; or

358 (b) a majority of the counties in the local health department if the counties rescind, or
359 withdraw, in writing the ratification of the local health officer.

360 (2) (a) A hearing shall be granted if requested by the local health officer.

361 (b) If a hearing is requested, it shall be conducted by a five member board with:

362 (i) two members from the governing body of the county or counties in the local health
363 department, selected by those governing bodies;

364 (ii) two members of the board of the local health department who are not elected officials
365 of the counties in the local health department, selected by the board; and

366 (iii) one member selected by the members appointed under Subsections (2)(b)(i) and (ii),

367 however, the member appointed under this subsection may not be an elected official of the
368 counties in the local health department and may not be a member of the board of the local health
369 department.

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

371 **26A-1-112. Appointment of personnel.**

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

378 (2) A personnel compensation plan shall be approved by the board.

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

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

383 (4) The personnel policies and compensation plans approved under Subsections (2) and
384 (3) must be ratified by all the counties participating in the local health department.

385 ~~(4)~~ (5) Subject to the local merit system, employees of the local health department may
386 be removed by the local health officer for cause. A hearing ~~[by the board]~~ shall be granted if
387 requested by the employee.

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

389 **26A-1-113. Right of entry to regulated premises by representatives for inspection.**

390 (1) Upon presenting proper identification, authorized representatives of local health
391 departments may enter upon the premises of properties regulated by local health departments to
392 perform routine inspections to insure compliance with rules, standards, regulations, and ordinances
393 as adopted by the Departments of Health and Environmental Quality, local boards of health, ~~[local~~
394 county or municipal governing bodies ~~[participating in local health departments]~~, or the Division
395 of Occupational and Professional Licensing under Section 58-56-4.

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

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

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

399 **26A-1-114. Powers and duties of departments.**

400 (1) A local health department may:

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

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

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

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

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

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

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

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

423 (g) make necessary sanitary and health investigations and inspections on its own initiative
424 or in cooperation with the Department of Health or Environmental Quality, or both, as to any
425 matters affecting the public health;

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

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

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

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

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

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

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

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

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

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

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

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

450 (2) The local health department shall:

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

453 (b) investigate infectious and other diseases of public health importance and implement
454 measures to control the causes of epidemic and communicable diseases and other conditions
455 significantly affecting the public health which may include involuntary testing of convicted sexual
456 offenders for the HIV infection pursuant to Section 76-5-502 and voluntary testing of victims of
457 sexual offenses for HIV infection pursuant to Section 76-5-503;

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

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

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

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

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

471 (iv) is reviewed and updated annually.

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

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

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

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

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

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

485 (4) If those responsible for the health-related condition of the school buildings and
486 premises do not carry out any instructions for corrections provided in a report in Subsection (3)(c),
487 the local health board shall cause the conditions to be corrected at the expense of the persons
488 responsible.

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

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

492 **26A-1-115. Apportionment of costs -- Contracts to provide services -- Percentage**
493 **match of state funds -- Audit.**

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

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

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

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

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

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

510 (4) Contract funds distributed under Subsection (3) shall be in accordance with Section
511 26A-1-116 and policies and procedures adopted by the department.

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

514 (6) All state funds distributed by contract from the department to local health departments
515 for public health services shall be matched by those local health departments at a percentage
516 determined by the department in consultation with local health departments. Counties shall have
517 no legal obligation to match state funds at percentages in excess of those established by the
518 department and shall suffer no penalty or reduction in state funding for failing to exceed the
519 required funding match.

520 (7) (a) Each local health department shall cause an annual financial and compliance audit
521 to be made of its operations by a certified public accountant. The audit may be conducted as part

522 of an annual county government audit of the county where the local health department
523 headquarters are located.

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

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

528 **26A-1-117. Funding of departments -- Tax levies.**

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

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

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

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

537 (c) in part by each.

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

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

541 **26A-1-118. Treasurer of local department -- Bond.**

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

544 (2) [~~In multi-county~~] Unless another county treasurer is designated pursuant to the
545 interlocal agreement creating the multicounty local health [departments] department, the county
546 treasurer of the county in which the headquarters of the local health department is located shall
547 serve as treasurer of the local health department. [~~The board and the governing body of the county~~
548 ~~in which the treasurer is serving may agree on an equitable reimbursement to the county for the~~
549 ~~services.~~]

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

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

553 **26A-1-119. Local health department fund -- Sources -- Uses.**

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

559 (2) (a) Moneys credited to the fund shall be placed in a restricted account and expended
560 only for maintenance and operation of the local health department.

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

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

564 **26A-1-120. County attorney or district attorney to represent and advise department,**
565 **board, officers, and employees.**

566 (1) Except as otherwise provided in this section, the county attorney of the county in which
567 the headquarters of the local health department is located shall serve as legal advisor to the local
568 health department in all civil matters involving the local health department.

569 ~~[(1)]~~ (2) The county attorney of the county ~~[when]~~ where a civil claim arises shall bring
570 any action requested by a local health department to abate a condition that exists in violation of,
571 or to restrain or enjoin any action which is in violation of the public health laws and rules of the
572 Departments of Health and Environmental Quality, the standards, regulations, orders, and notices,
573 of a local health department, and other laws, ordinances, and rules pertaining to health and sanitary
574 matters.

575 ~~[(2)]~~ (3) (a) The district attorney or county attorney having criminal jurisdiction shall
576 prosecute criminal violations of the public health laws and rules of the Departments of Health and
577 Environmental Quality, the standards, regulations, orders, and notices, of a local health
578 department, and other laws~~[, ordinances,]~~ and rules pertaining to health and sanitary matters.

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

581 ~~[(3)]~~ (4) The county attorney of a county where an action arises shall, if requested by the
582 county attorney designated in Subsection (1):

583 (a) act as legal adviser to the local health department and the board with respect to the

584 action; and

585 (b) defend all actions and proceedings brought in that county against the local health
586 department, the board, or the officers and employees of the local health department.

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

588 **26A-1-121. Standards and regulations adopted by local board -- Administrative and**
589 **judicial review of actions.**

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

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

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

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

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

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

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

614 (c) Judicial review of a final determination of the local board may be secured by any

615 person adversely affected by the final determination, or by the Departments of Health or
616 Environmental Quality, by filing a petition in the district court within 30 days after receipt of
617 notice of the board's final determination.

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

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

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

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

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

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

628 **26A-1-122. Counties joining existing department -- Abolition of department --**
629 **Withdrawal of county from department.**

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

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

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

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

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

643 **26A-1-125. Existing local health departments required to conform to statutory**
644 **amendments.**

645 Each county or municipality operating or participating in the operation of a local health

646 department in existence as of January 1, 2002, shall, no later than December 31, 2002, amend its
647 local ordinances, policies, or interlocal agreements relating to the organization and operation of
648 the local health department to conform to the statutory amendments to Title 26A during the 2002
649 General Session.

650 Section 24. **Repealer.**

651 This act repeals:

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