

1 **TRAFFIC OFFENSE ADJUDICATION**

2 2002 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Peter C. Knudson**

5 **This act modifies the Judicial Code by allowing justice court judges to conduct**
6 **administrative proceedings. This act allows certain counties and municipalities to impose**
7 **a civil penalty for minor traffic offenses and to provide administrative traffic proceedings.**
8 **The act gives a defendant certain rights and subjects an administrative law judge to a**
9 **complaint and disciplinary process. This act takes effect July 1, 2002.**

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

11 AMENDS:

12 **10-3-703**, as last amended by Chapter 323, Laws of Utah 2000

13 **10-3-703.5**, as last amended by Chapter 46, Laws of Utah 2001

14 **10-3-703.7**, as enacted by Chapter 323, Laws of Utah 2000

15 **10-8-84**, as last amended by Chapter 323, Laws of Utah 2000

16 **17-53-223**, as renumbered and amended by Chapter 133 and last amended by Chapter 323,
17 Laws of Utah 2000

18 **53-3-218**, as last amended by Chapter 85, Laws of Utah 2001

19 **63-63a-1**, as last amended by Chapter 323, Laws of Utah 2000

20 **78-3-4**, as last amended by Chapter 323, Laws of Utah 2000

21 **78-3a-117**, as last amended by Chapter 113, Laws of Utah 2000

22 **78-5-106**, as enacted by Chapter 157, Laws of Utah 1989

23 **78-7-35**, as renumbered and amended by Chapter 46, Laws of Utah 2001

24 ENACTS:

25 **17-53-223.5**, Utah Code Annotated 1953

26 **17-53-223.7**, Utah Code Annotated 1953

27 REPEALS:



28 **63-55-210**, as enacted by Chapter 323, Laws of Utah 2000

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

30 Section 1. Section **10-3-703** is amended to read:

31 **10-3-703. Penalties for violation of ordinance.**

32 (1) The governing body of each municipality may impose a minimum criminal penalty for
33 the violation of any municipal ordinance by a fine not to exceed the maximum class B
34 misdemeanor fine under Section 76-3-301 or by a term of imprisonment up to six months, or by
35 both the fine and term of imprisonment.

36 (2) ~~[(a) Except as provided in Subsection (2)(b), the]~~ The governing body may prescribe
37 a minimum civil penalty for the violation of any municipal ordinance by a fine not to exceed the
38 maximum class B misdemeanor fine under Section 76-3-301.

39 ~~[(b) A municipality may not impose a civil penalty and adjudication for the violation of
40 a municipal moving traffic ordinance, except as authorized in Section 10-3-703.5.]~~

41 Section 2. Section **10-3-703.5** is amended to read:

42 **10-3-703.5. Civil penalty for violation of municipal ordinance -- Administrative**
43 **traffic proceedings -- Appeals.**

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

47 ~~[(2)]~~ (1) (a) A municipality that has established a justice court may, by ordinance, impose
48 a civil penalty and provide for adjudication ~~[for]~~ of a violation of a municipal moving traffic
49 ordinance, including regulations described in Section 41-6-17, through an administrative traffic
50 proceeding.

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

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

55 ~~[(3)]~~ (2) An administrative traffic proceeding:

56 (a) shall, except as provided in this section, be conducted in accordance with Section
57 10-3-703.7; and

58 (b) may not be held for:

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

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

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

65 ~~[(4) If]~~ (3) The civil penalty from a final administrative determination in an administrative
66 traffic proceeding ~~[is for a violation: (a) the civil penalty]~~ is subject to the fees or surcharges
67 established in Subsections 78-7-35(2)(d)(ii) and 63-63a-1(1)(b)(ii)[;].

68 ~~[(b) the]~~ (4) The final administrative determination in an administrative traffic proceeding:
69 (a) constitutes a conviction as defined in Section 53-3-102; and

70 ~~[(c)]~~ (b) ~~[the final administrative determination]~~ may be appealed by a party in accordance
71 with Section 10-3-703.7.

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

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

75 ~~[(ii) \$580,400 for fiscal year 2001-02:]~~

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

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

79 ~~[(ii) \$446,900 for fiscal year 2001-02:]~~

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

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

85 Section 3. Section **10-3-703.7** is amended to read:

86 **10-3-703.7. Administrative proceedings -- Procedures -- Appeals.**

87 (1) As used in this section, "administrative proceeding" means an adjudicative hearing for
88 a violation of a civil municipal ordinance, including an administrative traffic proceeding
89 authorized in Section 10-3-703.5.

90 (2) An administrative proceeding:
91 (a) shall be a public meeting with business transacted during regularly scheduled hours;
92 (b) shall be conducted by a justice court judge or by an administrative law judge;
93 (c) shall provide due process for the parties;
94 (d) shall be recorded [~~or otherwise~~] and documented so that a true and correct transcript
95 may be made of its proceedings; [~~and~~]

96 (e) shall allow a defendant to:
97 (i) have access to evidence that will be used against the defendant prior to the time of the
98 hearing;
99 (ii) have an attorney present, if desired;
100 (iii) confront the defendant's accuser;
101 (iv) testify on his or her own behalf, if he or she so chooses; and
102 (v) present and refute evidence on the charges in the proceeding;
103 (f) shall require witnesses to appear and testify under oath;
104 (g) shall provide for cross examination of witnesses; and
105 [~~(e)~~] (h) may not be held for a civil violation that occurs in conjunction with another
106 criminal violation as part of a single criminal episode that will be prosecuted in a criminal
107 proceeding.

108 (3) An administrative law judge who conducts an administrative proceeding under this
109 section:

110 (a) shall be appointed by the municipality to conduct administrative proceedings;
111 (b) may be an employee of the municipality; [~~and~~]
112 (c) shall be subject to a complaint and disciplinary process established by the municipality
113 that:
114 (i) provides a procedure to receive, investigate, hear, and resolve complaints against the
115 administrative law judge; and
116 (ii) affords appropriate disciplinary measures including reprimand, censure, suspension,
117 removal, or involuntary retirement of the administrative law judge; and
118 (d) may not be disciplined for any decision made while conducting a hearing, as long as
119 the decision is made in accordance with governing statutes, ordinances, policies, and procedures.

120 [~~(e)~~] (4) The judge who conducts the administrative proceeding shall make a final

121 administrative determination for each administrative proceeding.

122 [~~(4)~~] (5) (a) A final administrative determination under this section may be an order for
123 the municipality to abate the violation.

124 (b) If a final administrative determination under this section is for a violation, the final
125 administrative determination may be appealed by a party in accordance with Subsection [~~(5)~~] (6).

126 [~~(5)~~] (6) (a) (i) Any person adversely affected by an administrative proceeding may petition
127 a district court for review of the administrative determination.

128 (ii) In the petition, the petitioner may only allege that the administrative proceeding's
129 decision was arbitrary, capricious, or illegal.

130 (iii) The petition is barred unless it is filed within 30 days after the administrative
131 determination is final.

132 (b) (i) The administrative proceeding shall transmit to the reviewing district court the
133 record of its proceedings, including its findings, orders, and a true and correct transcript of its
134 proceedings.

135 (ii) The district court may not accept or consider any evidence that is not included in the
136 administrative proceeding's record unless the evidence was offered to the administrative
137 proceeding and the district court determines that the evidence was improperly excluded by the
138 administrative proceeding.

139 Section 4. Section **10-8-84** is amended to read:

140 **10-8-84. Ordinances, rules, and regulations -- Passage -- Penalties.**

141 (1) The municipal legislative body may pass all ordinances and rules, and make all
142 regulations, not repugnant to law, necessary for carrying into effect or discharging all powers and
143 duties conferred by this chapter, and as are necessary and proper to provide for the safety and
144 preserve the health, and promote the prosperity, improve the morals, peace and good order,
145 comfort, and convenience of the city and its inhabitants, and for the protection of property in the
146 city.

147 (2) The municipal legislative body may enforce obedience to the ordinances with fines or
148 penalties in accordance with [~~Section~~] Sections 10-3-703 and 10-3-703.5.

149 Section 5. Section **17-53-223** is amended to read:

150 **17-53-223. Ordinances -- Power to enact -- Penalty for violation.**

151 (1) A county legislative body may:

152 (a) pass all ordinances and rules and make all regulations, not repugnant to law, necessary
153 for carrying into effect or discharging the powers and duties conferred by this title, and as are
154 necessary and proper to provide for the safety, and preserve the health, promote the prosperity,
155 improve the morals, peace, and good order, comfort, and convenience of the county and its
156 inhabitants, and for the protection of property in the county;

157 (b) enforce obedience to ordinances with fines or penalties as the county legislative body
158 considers proper; and

159 (c) pass ordinances to control air pollution.

160 (2) Punishment imposed under Subsection (1)(b) shall be by fine, not to exceed the
161 maximum fine for a class B misdemeanor under Section 76-3-301, imprisonment, or by both fine
162 and imprisonment.

163 [~~(3) (a) Except as specifically authorized by statute, the county legislative body may not
164 impose a civil penalty for the violation of a county traffic ordinance.]~~

165 [~~(b) Subsection (3)(a) does not apply to an ordinance regulating the parking of vehicles
166 on a highway.]~~

167 Section 6. Section **17-53-223.5** is enacted to read:

168 **17-53-223.5. Civil penalty for violation of county ordinance -- Administrative traffic**
169 **proceedings -- Appeals.**

170 (1) (a) A county that has established a justice court may, by ordinance, impose a civil
171 penalty and provide for adjudication of a violation of a county moving traffic ordinance, including
172 regulations described in Section 41-6-17, through an administrative traffic proceeding.

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

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

177 (2) An administrative traffic proceeding:

178 (a) shall, except as provided in this section, be conducted in accordance with Section
179 17-53-223.7; and

180 (b) may not be held for:

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

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

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

187 (3) The civil penalty from a final administrative determination in an administrative traffic
188 proceeding is subject to the fees or surcharges established in Subsections 78-7-35(2)(d)(ii) and
189 63-63a-1(1)(b)(ii).

190 (4) The final administrative determination in an administrative traffic proceeding:

191 (a) constitutes a conviction as defined in Section 53-3-102; and

192 (b) may be appealed by a party in accordance with Section 17-53-223.7.

193 Section 7. Section **17-53-223.7** is enacted to read:

194 **17-53-223.7. Administrative proceedings -- Procedures -- Appeals.**

195 (1) As used in this section, "administrative proceeding" means an adjudicative hearing for
196 a violation of a civil county ordinance, including an administrative traffic proceeding authorized
197 in Section 17-53-223.5.

198 (2) An administrative proceeding:

199 (a) shall be a public meeting with business transacted during regularly scheduled hours;

200 (b) shall be conducted by a justice court judge or by an administrative law judge;

201 (c) shall provide due process for the parties;

202 (d) shall be recorded and documented so that a true and correct transcript may be made of
203 its proceedings;

204 (e) shall allow a defendant to:

205 (i) have access to evidence that will be used against the defendant prior to the time of the
206 hearing;

207 (ii) have an attorney present, if desired;

208 (iii) confront the defendant's accuser;

209 (iv) testify on his or her own behalf, if he or she so chooses; and

210 (v) present and refute evidence on the charges in the proceeding;

211 (f) shall require witnesses to appear and testify under oath;

212 (g) shall provide for cross-examination of witnesses; and

213 (h) may not be held for a civil violation that occurs in conjunction with another criminal

214 violation as part of a single criminal episode that will be prosecuted in a criminal proceeding.

215 (3) An administrative law judge who conducts an administrative proceeding under this
216 section:

217 (a) shall be appointed by the county to conduct administrative proceedings;

218 (b) may be an employee of the county;

219 (c) shall be subject to a complaint and disciplinary process established by the county that:

220 (i) provides a procedure to receive, investigate, hear, and resolve complaints against the
221 administrative law judge; and

222 (ii) affords appropriate disciplinary measures including reprimand, censure, suspension,
223 removal, or involuntary retirement of the administrative law judge; and

224 (d) may not be disciplined for any decision made while conducting a hearing, as long as
225 the decision is made in accordance with governing statutes, ordinances, policies, and procedures.

226 (4) The judge who conducts the administrative proceeding, shall make a final
227 administrative determination for each administrative proceeding.

228 (5) (a) A final administrative determination under this section may be an order for the
229 county to abate the violation.

230 (b) If a final administrative determination under this section is for a violation, the final
231 administrative determination may be appealed by a party in accordance with Subsection (6).

232 (6) (a) (i) Any person adversely affected by an administrative proceeding may petition a
233 district court for review of the administrative determination.

234 (ii) In the petition, the petitioner may only allege that the administrative proceeding's
235 decision was arbitrary, capricious, or illegal.

236 (iii) The petition is barred unless it is filed within 30 days after the administrative
237 determination is final.

238 (b) (i) The administrative proceeding shall transmit to the reviewing district court the
239 record of its proceedings, including its findings, orders, and a true and correct transcript of its
240 proceedings.

241 (ii) The district court may not accept or consider any evidence that is not included in the
242 administrative proceeding's record unless the evidence was offered to the administrative
243 proceeding and the district court determines that the evidence was improperly excluded by the
244 administrative proceeding.

245 Section 8. Section **53-3-218** is amended to read:

246 **53-3-218. Court to report convictions and may recommend suspension of license --**
247 **Severity of speeding violation defined.**

248 (1) As used in this section:

249 (a) "conviction" means conviction by the court of first impression or final administrative
250 determination in an administrative traffic proceeding; and

251 (b) "court" includes an administrative traffic proceeding in accordance with Section
252 10-3-703.5 or 17-53-223.5.

253 (2) A court having jurisdiction over offenses committed under this chapter or any other
254 law of this state, or under any county or municipal ordinance regulating driving motor vehicles on
255 highways, shall forward to the division within ten days, an abstract of the court record of the
256 conviction or plea held in abeyance of any person in the court for a reportable traffic violation of
257 any laws or ordinances, and may recommend the suspension of the license of the person convicted.

258 (3) The abstract shall be made in the form prescribed by the division and shall include:

259 (a) the name and address of the party charged;

260 (b) the number of his license certificate, if any;

261 (c) the registration number of the motor vehicle involved;

262 (d) whether the motor vehicle was a commercial motor vehicle;

263 (e) whether the motor vehicle carried hazardous materials;

264 (f) the nature of the offense;

265 (g) the date of the hearing;

266 (h) the plea;

267 (i) the judgment or whether bail was forfeited; and

268 (j) the severity of the violation, which shall be graded by the court as "minimum,"

269 "intermediate," or "maximum" as established in accordance with Subsection 53-3-221(4).

270 (4) When a convicted person secures a judgment of acquittal or reversal in any appellate
271 court after conviction in the court of first impression, the division shall reinstate his license
272 immediately upon receipt of a certified copy of the judgment of acquittal or reversal.

273 Section 9. Section **63-63a-1** is amended to read:

274 **63-63a-1. Surcharge -- Application and exemptions.**

275 (1) (a) A surcharge shall be paid on:

276 (i) all criminal fines, penalties, and forfeitures imposed by the courts; and
277 (ii) a civil fine imposed by an administrative traffic proceeding in accordance with Section
278 10-3-703.5 or 17-53-223.5.

279 (b) The surcharge shall be:

280 (i) 85% upon conviction of a:

281 (A) felony;

282 (B) class A misdemeanor;

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

284 Driving; or

285 (D) class B misdemeanor not classified within Title 41, Motor Vehicles, including

286 violation of comparable county or municipal ordinances; or

287 (ii) 35% upon conviction of any other offense, including violation of county or municipal

288 ordinances not subject to the 85% surcharge.

289 (2) The surcharge may not be imposed:

290 (a) upon nonmoving traffic violations;

291 (b) upon court orders when the offender is ordered to perform compensatory service work

292 in lieu of paying a fine; and

293 (c) upon penalties assessed by the juvenile court as part of the nonjudicial adjustment of

294 a case under Section 78-3a-502.

295 (3) (a) The surcharge and the exceptions under Subsections (1) and (2) also apply to all

296 fines, penalties, and forfeitures imposed on juveniles for conduct that would be criminal if

297 committed by an adult.

298 (b) However, the surcharge does not include amounts assessed or collected separately by

299 juvenile courts for the Juvenile Restitution Account, which is independent of this chapter and does

300 not affect the imposition or collection of the surcharge.

301 (4) The surcharge under this section shall be imposed in addition to the fine charged for

302 a civil or criminal offense, and no reduction may be made in the fine charged due to the surcharge

303 imposition.

304 (5) Fees, assessments, and surcharges related to criminal or traffic offenses shall be

305 authorized and managed by this chapter rather than attached to particular offenses.

306 Section 10. Section **78-3-4** is amended to read:

307 **78-3-4. Jurisdiction -- Appeals.**

308 (1) The district court has original jurisdiction in all matters civil and criminal, not excepted
309 in the Utah Constitution and not prohibited by law.

310 (2) The district court judges may issue all extraordinary writs and other writs necessary
311 to carry into effect their orders, judgments, and decrees.

312 (3) The district court has jurisdiction over matters of lawyer discipline consistent with the
313 rules of the Supreme Court.

314 (4) The district court has jurisdiction over all matters properly filed in the circuit court
315 prior to July 1, 1996.

316 (5) The district court has appellate jurisdiction to adjudicate trials de novo of the
317 judgments of the justice court and of the small claims department of the district court.

318 (6) Appeals from the final orders, judgments, and decrees of the district court are under
319 Sections 78-2-2 and 78-2a-3.

320 (7) The district court has jurisdiction to review:

321 (a) agency adjudicative proceedings as set forth in Title 63, Chapter 46b, Administrative
322 Procedures Act, and shall comply with the requirements of that chapter, in its review of agency
323 adjudicative proceedings; and

324 (b) county or municipal administrative proceedings in accordance with Section 10-3-703.7
325 or 17-53-223.7.

326 (8) Notwithstanding Subsection (1), the district court has subject matter jurisdiction in
327 class B misdemeanors, class C misdemeanors, infractions, and violations of ordinances only if:

328 (a) there is no justice court with territorial jurisdiction;

329 (b) the matter was properly filed in the circuit court prior to July 1, 1996;

330 (c) the offense occurred within the boundaries of the municipality in which the district
331 courthouse is located and that municipality has not formed a justice court; or

332 (d) they are included in an indictment or information covering a single criminal episode
333 alleging the commission of a felony or a class A misdemeanor.

334 Section 11. Section **78-3a-117** is amended to read:

335 **78-3a-117. Minor's cases considered civil proceedings -- Adjudication of jurisdiction**
336 **by juvenile court not conviction of crime, exceptions -- Minor not to be charged with crime,**
337 **exception -- Traffic violation cases, abstracts to Department of Public Safety.**

338 (1) Except as provided in Sections 78-3a-602 and 78-3a-603, proceedings in minor's cases
339 shall be regarded as civil proceedings with the court exercising equitable powers.

340 (2) An adjudication by a juvenile court that a minor is within its jurisdiction under Section
341 78-3a-104 is not considered a conviction of a crime, except in cases involving traffic violations.
342 An adjudication may not operate to impose any civil disabilities upon the minor nor to disqualify
343 the minor for any civil service or military service or appointment.

344 (3) A minor may not be charged with a crime or convicted in any court except as provided
345 in Sections 78-3a-602 and 78-3a-603, and in cases involving traffic violations. When a petition
346 has been filed in the juvenile court, the minor may not later be subjected to criminal prosecution
347 based on the same facts except as provided in Section 78-3a-602 or 78-3a-603.

348 (4) An adjudication by a juvenile court that a minor is within its jurisdiction under Section
349 78-3a-104 is considered a conviction for the purposes of determining the level of offense for which
350 a juvenile may be charged and enhancing the level of an offense in the juvenile court. A prior
351 adjudication may be used to enhance the level or degree of an offense committed by an adult only
352 as otherwise specifically provided.

353 (5) Abstracts of court records or administrative proceedings for all adjudications of traffic
354 violations shall be submitted to the Department of Public Safety as provided in Section 53-3-218.

355 (6) Information necessary to collect unpaid fines, fees, assessments, bail, or restitution may
356 be forwarded to employers, financial institutions, law enforcement, constables, the Office of
357 Recovery Services, or other agencies for purposes of enforcing the order as provided in Section
358 78-3a-118.

359 Section 12. Section **78-5-106** is amended to read:

360 **78-5-106. Justice court judge authority.**

361 Justice court judges:

362 (1) have the same authority regarding matters within their jurisdiction as judges of courts
363 of record;

364 (2) may issue search warrants and warrants of arrest upon a finding of probable cause; and

365 (3) may conduct proceedings to determine:

366 (a) probable cause for any case within their jurisdiction; [~~and~~]

367 (b) an accused person's release on bail or his own recognizance[-]; and

368 (4) may conduct administrative proceedings under Sections 10-3-703.7 and 17-53-223.7.

369 Section 13. Section **78-7-35** is amended to read:

370 **78-7-35. Civil fees of the courts of record -- Courts complex design.**

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

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

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

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

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

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

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

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

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

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

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

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

393 (iii) \$90 if the original petition is filed under Subsection (1)(a), the claim for relief is
394 \$10,000 or more, or the party seeks relief other than monetary damages; and

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

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

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

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

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

404 (g) The fee for filing a petition is:

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

407 (ii) \$40 for an appeal of ~~[a municipal]~~ an administrative determination in accordance with
408 Section 10-3-703.7 or 17-53-223.7.

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

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

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

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

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

420 (iii) One dollar of the fees established under Subsections (1)(a) through (e), (1)(g), and
421 (1)(r) shall be allocated to and deposited with the Dispute Resolution Fund as provided in Section
422 78-31b-9.

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

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

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

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

431 \$40.

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

433 \$25.

434 (o) The fee for filing an award of arbitration for confirmation, modification, or vacation

435 under Title 78, Chapter 31a, Utah Arbitration Act, that is not part of an action before the court is

436 \$25.

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

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

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

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

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

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

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

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

445 (s) The fee for filing a notice of deposition in this state concerning an action pending in

446 another state under Utah Rule of Civil Procedure 26 is \$25.

447 (t) The fee for filing documents that require judicial approval but are not part of an action

448 before the court is \$25.

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

450 (v) The fee for a writ of replevin, attachment, execution, or garnishment is \$20 in addition

451 to any fee for a complaint or petition.

452 (w) The fee for a petition for authorization for a minor to marry required by Section 30-1-9

453 is \$5.

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

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

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

457 page.

458 (aa) The Judicial Council shall by rule establish a schedule of fees for copies of documents

459 and forms and for the search and retrieval of records under Title 63, Chapter 2, Government

460 Records Access and Management Act. Fees under this subsection shall be credited to the court

461 as a reimbursement of expenditures.

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

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

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

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

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

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

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

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

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

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

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

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

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

503 (d) (i) From May 1, 1995 until June 30, 1998, the administrator of the courts shall transfer
504 \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a
505 court of record to the Division of Facilities Construction and Management Capital Projects Fund.
506 The division of money pursuant to Section 78-3-14.5 shall be calculated on the balance of the fine
507 or bail forfeiture paid.

508 (ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer \$7
509 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court
510 of record or an administrative traffic proceeding in accordance with Section 10-3-703.5 or
511 17-53-223.5 to the Division of Finance for deposit in the restricted account created by this section.
512 The division of money pursuant to Section 78-3-14.5 shall be calculated on the balance of the fine
513 or bail forfeiture paid.

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

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

518 (i) to repay costs associated with the construction of the court complex that were funded
519 from sources other than revenues provided for under this Subsection (3)(b)(i); and

520 (ii) to cover operations and maintenance costs on the court complex.

521 **Section 14. Repealer.**

522 This act repeals:

523 **Section 63-55-210, Repeal dates, Title 10.**

524 Section 15. **Effective date.**
525 This act takes effect on July 1, 2002.

Legislative Review Note
as of 11-14-01 5:36 PM

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

Office of Legislative Research and General Counsel

Committee Note

The Transportation Interim Committee recommended this bill.